

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 11.08.2018

CORAM

THE HONOURABLE Mr.JUSTICE R.SURESH KUMAR

W.P.No.37806 of 2003

M. Sellan

... Petitioner

Vs

1. The Director General,
Border Security Force (BSF)
10, Complex, Lodi Road, New Delhi.
 2. The Commandant,
Border Security Force (BSF)
Chief Commanding Office, New Delhi.
 3. United India Insurance Company Ltd.,
Rep. By its Sr. Divisional Manager,
Divisional Office,
No.12, Flat No.42 - C, III Floor,
Moolchand Commercial Complex,
New Delhi- 110 024.
 4. The Director General,
PLI 2-B, Ganesh Chandra Avenue,
Calcutta 700 013.
 5. The Government of Tamil Nadu,
Rep. By the Secretary to Home Department,
Chennai - 600 009.
- ... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents to grant increased SPBY (Seema Prahathi Beema Yogana) amount considering the percentage of necessary actions for getting ex-gratia amounts from the Government of Jammu and Kashmir and the Government of Tamil Nadu as well as the disability claim under postal life Insurance to the petitioner within the time that may be fixed by this Court.

For Petitioner : Mr.M.Tamil Thendral Arasu

For Respondents : Mr.J.Madhanagopal Rao,
SCGSC for R1 and R2

O R D E R

Heard Mr.P.Mani, the learned counsel for the petitioner and Mr.J.Madhanagopal Rao, the learned Senior Central Government Standing counsel for respondents.

2.The grievance of the petitioner is that, he was a Soldier under Board Security Force. While he involved in the KARGIL operation in the year 1999, at that time, because of the IED blast caused by anti-national elements on 29.05.1999 at Bindi, near Jamda Gala, Rajouri District, at the State of Jammu and Kashmir, the petitioner and other soldiers, who were travelling in the BSF lorry were severely injured. In the result, the petitioner was taken into 150 General Hospital, Rajouri and subsequently, to Tac Headquarters Hospital, where, he was taking treatment till 15.07.1999.

3. The injury sustained by the petitioner is grievous in nature and after taking long treatment, he was discharged and the Medical Board has given a certificate that the petitioner was affected by 40% disability.

4. In this regard, since the petitioner had applied for BSF SPBY (Border Security Force, Seema Prahathi Beema Yogana), a sum of Rs.20,000/- alone was paid even though similarly placed persons have been paid an ex-criteria of Rs.1 Lakh for having sustained such grievous injuries during the security operations.

5.In this regard, even though the petitioner had been giving repeated representations from 26.06.2001 till 15.02.2003 including the notice issued on 15.02.2003 through his lawyer, nothing was forthcoming from the respondent and therefore, the petitioner filed this writ petition in the year 2003.

6. I heard the learned counsel for the petitioner who would submit that, since the petitioner is entitled for higher amount under various schemes/Insurance scheme, because of the injury sustained by him and by taking into account the 40% disability, the petitioner sustained due to the injuries as has been certified by the Medical Board, the actual amount payable to the petitioner should be ordered to be paid.

7. I heard Mr.J.Madhanagopal Rao, the learned Senior Central Government Standing Counsel, who would submit that, immediately

the petitioner had been paid a sum of Rs.20,000/- for which he is entitled to. Further, in so far as further entitlement is concerned, if it is the Insurance Company Scheme since the Insurance Company has also been impleaded herein after ascertaining the entitlement of the petitioner under any higher insurance scheme or any other scheme, an order to that effect will be passed, by giving disposal of the representation made by the petitioner.

8. I have considered the said arguments made by both sides.

9. Since the petitioner admittedly had sustained grievous injuries during security operations in a sensitive State like Jammu and Kashmir which resulted 40% disability to the petitioner and it has been evident from the certificate issued in this regard by the Medical Board. When that being the position, whether the petitioner is entitled for any considerable amount under any of the scheme under which the petitioner is covered, the said amount can very well be disbursed to the petitioner. In this regard, since the petitioner had already given representations, i.e., the representations dated 26.06.2001 to 15.02.2003 and no orders since have been passed, this Court is inclined to pass the following order:

"The respondents are directed to consider the representations dated 26.06.2001 and other representations given in this regard. On considering the same, the respondents shall pass necessary orders with regard to the entitlement of the petitioner for getting any higher amount of compensation for the grievous injuries sustained by him with the result he has been suffered with 40% disability. Such orders shall be passed by the respondents, within a period of 12 weeks from the date of receipt of copy of this order."

10. The petitioner shall forward the copy of this order along with copy of the representation, he had given between 26.06.2001 till 15.02.2003, for the benefit of early disposal of the same by the respondents.

With these directions, this Writ Petition is disposed of. No costs.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

To

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Lodi Road, New Delhi.
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5. The Secretary to Home Department,
Government of Tamil Nadu, Chennai - 600 009.

+1cc to Mr.P.Mani, Advocate, S.R.No.55544

+1cc to Mr.J.Madanagopal Rao, Advocate, S.R.No.55501

W.P.No.37806 of 2003

GSP(10/09/2018)

सत्यमेव जयते

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