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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 1627/2018 & CM No.6692/2018

RAM DEVI

..... Petitioner

Through: Mr.Ankur Chibber, Advocate

versus

UNION OF INDIA & ORS

..... Respondents

Through: Dr.L.C.Singhi, Advocate
for R-1 to R-4

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

% **21.02.2018**

1. The petitioner, wife of Late Sh.Yatinder Singh, who was working on the post of a Head Constable in the BSF and had expired on 16.12.2010, upon suffering a cardiac arrest in the course of official duty, has filed the present petition praying *inter alia* for issuance of a writ of Mandamus, directing the respondents to release the special family pension in her favour alongwith all arrears and interest thereon.

2. Mr.Ankur Chhibber, learned counsel for the petitioner submits that prior hereto, the petitioner had filed W.P.(C) No.3527/2013, wherein she had claimed entitlement to *ex-gratia* compensation, in terms of OM dated 02.09.2008. The said petition was allowed vide judgment dated 27.05.2015, on the following terms:-

"20. *Blending the statutory definition of active duty in the potion of the two Office Memorandums, in harmony with the rule of interpretation of beneficial legislation, it can be said that the death of a force personnel due to heart attack suffered just after performing actual duty would be a case of an accidental death in the course of performance of duties. An accident would be an unfortunate incident that happens unexpectedly and unfortunately; an event that happens by chance or that is without apparent or deliberate cause; a circumstance or attribute that is not essential to the nature of something; a misfortune.*

21. *The late husband of the petitioner died on September 16, 2010 within 15 minutes of completing ambush-cum-patrolling duty at the Border Outpost Jagmal at the Line of Control in Kutch. He may have had a liver problem which may have contributed to the heart attack suffered by him but no less could be the contribution of the stress occasioned while performing ambush-cum-patrolling duty. The late husband of the petitioner was on active duty and the concept of accident envisaged by the two Office Memorandums dated September 11, 1998 and September 02, 2008 has to be given a liberal interpretation keeping in view that the two Office Memorandums embody a beneficial executive policy. The liberal interpretation of accident would be as per para 20 above. Thus we hold that the petitioner would be entitled to the ex-gratia lump sum compensation payable under the Office Memorandum dated September 11, 1998 as modified by the Office Memorandum dated September 02, 2008. The compensation payable would be ₹10,00,000/- (Rupees Ten Lacs only) which we direct to be paid to the petitioner within 8 weeks from today failing which the amount shall be paid with simple interest @ 8% per annum reckoned 8 weeks from the date of this decision."*

3. Learned counsel for the petitioner submits that, ideally, the petitioner ought to have sought the relief of special family pension in the earlier petition itself but she was not advised properly. Hence the present petition has had to be filed.

4. It appears from the records that the petitioner had not submitted any representation to the respondents before approaching the court for relief.
5. With the consent of the parties, the present petition is disposed of with direction to the respondents to consider the submissions made by the petitioner in the present petition and take a decision on her claim for special family pension, keeping in mind the observations made by the Division Bench in the earlier petition filed by her, decided on 27.05.2015. Appropriate orders in respect of the relief prayed for, by the petitioner shall be passed within eight weeks from today, under written intimation to her.
6. If the grievance of the petitioner still survives, she will be entitled to seek legal recourse.
7. The petition is disposed of.

HIMA KOHLI, J.

PRATIBHA RANI, J.

FEBRUARY 21, 2018

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