



IN THE HIGH Court OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.4802 OF 2021

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..... Petitioner

Versus

1. State of Maharashtra,
Through The Secretary,
Finance Department
Government of Maharashtra
Mantralaya, Mumbai-400 032.
2. The Secretary
General Administration
Department, Government of
Maharashtra, Mantralaya,
Mumbai-400 032.
3. The Secretary,
Law and Judiciary Department,
Government of Maharashtra,
Mantralaya, Mumbai-400 032.
4. The Registrar General, High Court,
Appellate Side, Mumba-400 032
5. The Secretary
Ministry of Health and Family Welfare
Government of India, Nirman Bhavan
Maulana Azad Road, New Delhi,
PIN - 110011

..... Respondents

Mr.Ramesh Ramamurthy with Mr.Saikumar Ramamurthy with Ms.Kavita Anchan and Ms.Seema Sorte and Mr.Karthik Pillai for Petitioner.
Mr.N.C.Walimbe, A.G.P. for the Respondent nos.1 to 3 / State
Mr.Rahul Nerlekar for the Respondent no.4
Mr.D.P.Singh for Respondent No.5 – Union of India

**CORAM: SUNIL B. SHUKRE, J. &
 FIRDOSH P. POONTWALLA, J.**
DATED : 6th SEPTEMBER 2023

ORAL JUDGMENT (PER : SUNIL B. SHUKRE, J.) :

1. Rule. Rule made returnable forthwith. With the consent of the parties taken up for final disposal.
2. By this petition, the Petitioner who is an employee of the High Court has sought extension of the benefit granted to the Government and Court Employees under G.R. dated 29th May 2020. The benefit granted by this G.R. is in the nature of payment of compensation of Rs.50 Lacs by way of ex-gratia payment to the relatives of the Government / Court Employees who died of COVID during the period from 29th May 2020 to 30th September 2020 which date was extended from time to time till 30th June 2021.
3. According to the learned counsel for the Petitioner even though lock down was lifted after 30th June 2021, the deleterious effects of COVID-19 Pandemic continued as a result of which several Government employees and Court employees who were required to attend to their duties in the

office exposed themselves to risk of COVID-19 infection and some of them even contracted infection which ultimately proved to be fatal for some of the employees.

4. Learned counsel for the Petitioner, therefore, submits that the last date stipulated by the State Government for making available the said benefit to the relatives of the deceased employees is unreasonable and against the welfare policy of the State and therefore, he further submits that necessary directions for extending the last date for implementation of the scheme of ex-gratia payment vide G.R. dated 29th May 2020 is required to be issued.

5. In a case like this, we must say, this Court has little power, in exercise of its extraordinary jurisdiction under Article 226 of the Constitution of India, to issue a direction as prayed for. The reason being that issue like payment of compensation or ex-gratia payment to the relatives of those victims of COVID-19 infection from amongst the Government employees who died of the infection is a matter of policy. The present policy has been framed keeping in view the situation of emergency that prevailed after the epidemic of COVID-19 was declared a pandemic, as it had affected almost the entire world. As a result of declaration of COVID-19 pandemic, the Government imposed several restrictions and one of the restrictions was so extreme that it clamped a complete lock down on human activities except for a few Governmental activities barring those

related to its sovereign functions, essential services and court functions. Even the governmental and court activities had been reduced to bare minimum. The employees, businessmen, traders, entrepreneurs and all members of other sectors were forced to either work from home or sit idle at home. They were not allowed to leave their homes. But, there were certain employees as stated earlier who continued to function, rather were constrained to function due to sovereign and essential nature of their duties. As these activities which included Court related functions were covered under the essential services and sovereign functions, some of the staff members of the government and Courts were required to attend to their duty in office. Obviously, their such attendance posed great risk to their health and some time even life. Yet these employees, committed as they were to their duty, faithfully performed their duty, by attending their respective offices. In the process, some of these employees got COVID-19 infection and some of them could not unfortunately recover and lost their lives. Thus, they fell victims to the COVID-19 Pandemic. It was for this reason that the government came up with a policy of paying compensation in the nature of ex-gratia payment to the relatives of fatal victims of COVID-19 Pandemic. It was a response to the situation of emergency that prevailed after the lock down was declared.

6. But, such emergency no longer existed. There was abatement of the COVID-19 Pandemic wave. It led to lifting of lock down by the

government. After the lock down was released by the government, all the employees and other persons were required to resume their normal duties and activities. Their such resumption of work and duties was in normal course and it was not under circumstances of any compulsion. That being so, the government thought it fit, in its wisdom, to not extend the benefit of the scheme framed by this G.R. dated 29th May 2020 beyond of 30th June 2021.

7. Considering the above referred facts and circumstances and also non-existence of the reasons that had gone behind framing of the scheme vide G.R. dated 29th May 2020, after returning of normalcy in state of affairs, we do not think that the decision of the government to not extend the last date of the scheme which is 30th June 2021 for a further period of time, can be said to be something which is illegal or unreasonable or which defies any logic. Then, it is also a matter of policy for the government to consider as to which date would be the last date for implementation of the scheme of the present nature. This Court cannot direct the government to frame its policy in a particular manner or extend its policy to a particular period of time unless circumstances exist which warrant a direction to the State to fulfill its constitutional obligation to direct its policy, as a welfare state, in a manner as to save life of human beings while health and strength of workers, men and women are not abused, under Article 21 read with Article 39(e) of the Constitution of India. Such circumstances are not

present here and, therefore, the prayer made by the Petitioner in this case cannot be granted.

8. In the result, we find that there is no merit in the petition and it deserves to be dismissed.

9. We, however, grant liberty to the relatives of Court employees stated to be six in number, as per the list of such employees, provided to this Court vide Document 'A', to make individual representations with necessary details to the government for grant of some compensation to them as a special case by extending the last date of the G.R. dated 29th May 2020, just as Central Government has extended its scheme till 30th June 2022. In case such representations are individually made by family members of the deceased employees as per Document 'A', same may be considered by the State Government sympathetically within 30 days from the date of the order and in the light of its own welfare policy as early as possible, preferably within 12 weeks from the date of receipt of such representations.

10. At this stage, it is pointed out to us by the learned counsel for the Petitioner that there are atleast 93 Court employees whose similar claims are pending for sanction of the State Government. If that is so, we would grant liberty to the Petitioner to provide names of all such Applicants with all necessary details to the State Government within a period of 30 days from the date of the order and if such details are provided by the Petitioner

to the State Government, State Government shall decide those claims appropriately in terms of its G.R. dated 29th May 2020 which has been extended till 30th June 2021 at the earliest.

11. Subject to above liberties and observations, the Writ Petition stands dismissed.

12. Rule is discharged.

(FIRDOSH P. POONIWALLA, J.)

(SUNIL B. SHUKRE, J.)