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

Date of Decision: 21st September, 2023

\+ **W.P.(C) 1398/2022**

RAKHI BHISHT ..... Petitioner

Through: Ms. Isha Khanna and Mr. Nikhil Arora, Advs. (M: 9953732104)

versus

GOVT. OF NCT OF DELHI ..... Respondent

Through: Mr. Satyakam ASC (M: 9868219633)

CORAM:
JUSTICE PRATHIBA M. SINGH

Prathiba M. Singh, J. (Oral)

1. This hearing has been done through hybrid mode.

2. The present petition has been filed by the Petitioner-Ms. Rakhi Bhisht seeking *ex-gratia* compensation of Rs.1 crores upon the death of her husband who died on 13th June, 2020 due to COVID-19. The husband of the Petitioner-Mr. Vivek Kumar Bhisht was working in St. Stephen's Hospital, Delhi as Prosthetist cum Orthotist Gr. I, with employee bearing Number 6684. He was posted in the said hospital since 1998.

3. The said hospital was declared as COVID-19 hospital during the pandemic on 24th May 2020 and all medical and para-medical staff was directed to attend to the hospital duties during the said period.

4. In the meantime, vide Cabinet Decision No. 2835 dated 13th May 2020, the GNCTD decided that if any person including doctors, nurses, paramedical staff, etc., who are deployed for COVID-19 duties, expires by contracting the COVID-19 during discharge of the duty, their family shall be paid an *ex-gratia* amount of Rs. 1 crore.

5. The Petitioner contacted COVID-19 during the pandemic period and passed away on 13th June, 2020. The *ex-gratia* payment was then sought by the Petitioner in terms of the Cabinet Decision of the GNCTD. Since the said amount was not released to the Petitioner, the present writ petition was filed.

6. Notice in the present petition was issued on 24th January 2022. According to the affidavit dated 29th July 2022, the Respondent No. 1 stated that the Petitioner's husband, who worked as a Prosthetist cum Orthotist, was not deployed for COVID-19 duties, making him ineligible for *ex-gratia* compensation in terms of the Cabinet Decision. Both the Respondent No. 1 and the Revenue Minister of GNCTD concurred that the Petitioner's case fell beyond the scope of the Cabinet Decision. The said Cabinet Decision reads as follows:

> ***"Subject: Cabinet Note regarding awarding compensation to family of employees who die of the disease while on COVID 19 duty.***
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> ***Decision: The Council of Ministers considered the note of Minister (H&FW) and approved that any person including Doctor. Nurse, Paramedical Staff, Security/Sanitation staff or any other Govt. Officer/Official, including Police Officer/Official, whether temporary or permanent employee or contractual, in Government or Private Sector, deployed for COVID-19 duties by Government of NCT of Delhi, if expires by contracting the disease during discharge of his/her duty, his/her family shall be paid an ex gratia amount of Rupees One Crore, posthumously***.
>
> *The concerned Department/Agency, where the person was employed, will submit the case with their*

recommendations, enclosing the report of Death Audit Committee and report of Medical Superintendent/In-charge of the Hospital/Medical {Institutions to Revenue Department, GNCTD for further processing for payment of the ex-gratia and sane shall be put up to Minister (Health), through Minister (Revenue), for the approval of Hon'ble Chief Minister. After approval of Hon'ble Chief Minister ex-gratia amount will be paid by Revenue Department to bona fide beneficiary from Major Head 2235-60- 200-62-00-50-other charges."

7. Vide order dated 8th May 2023, the present case was taken with other similar COVID-19 death related matters and was referred to the Group of Ministers, GNCTD (GoM). The GoM was to consider the Petitioner and the other similarly situated persons' cases for release of ex-gratia payment.

8. On 4th September 2023, ld. ASC submitted that the GoM meeting to consider grant of COVID-19 *ex-gratia* compensation was scheduled for 13th September 2023.

9. Today, Mr. Satyakam, ASC for the GNCTD has submitted that the GoM meeting took place on 13th September, 2023 and the Petitioner's case has been unanimously recommended for grant of ex-gratia amount of Rs.1 crore to the family members of the deceased.

10. The said decision of the GoM is set out below:

S. No.	Details of the Deceased	Brief facts	Recommendation of the Committee
1.	Name and designation of deceased	**Sh. Vivek Kumar Bisht** **Prosthetist cum Orthotist, Gr.-I**	This case was earlier rejected by the Hon'ble Minister (Revenue) considering that the deceased was performing his normal routine duties. Wife of the deceased filed a case in Hon'ble High Court and as per directions of the Hon'ble High Court, the case of Late Sh. Vivek Kumar Bisht was again placed before the Group of Ministers in the meeting.
	Department	St. Stephen's Hospital	
	Place of Duty	Department of Artificial Limb Centre, St. Stephen's Hospital	
	Order regarding assignment of COVID related duties	As per the certificate issued by Medical Superintedent, St. Stephen's Hospital, "This is to certify that Late Shri Vivek kumar Bisht was employed with our Hospital as Prosthetist Cum Orthotist Gr.I, Employee Number 6684 in the	

		Artificial Limb Centre of our Hospital w.e.f 10.07.1998 and was in our employment on the date of his death i.e. 13.06.2020. Our hospital was designated and identified for COVID-19 by the competent authority i.e. Health and Family Welfare Department, with the direction to reserve more than 20% beds (isolation ward) including 8 beds for MICU for treatment of COVID-19 patient. It is also certified that the COVID-19 patients who require critical care are admitted and treated in the Hospital. We confirm that the deceased was rendering services to patients in the ALC and may have come in direct contact of a COVID-19 patient. He was also involved in going to the wards for taking measurements of Orthosis for patients."	The representatives of St. Stephen's Hospital also attended the meeting andclarified that St. Stephen's Hospitalwas converted into a designated COVID hospital by GNCTD. However, even before declaring it a COVID facility, the COVID positive patients were admitted and getting treatment there. The Group of Ministers has taken a view that St. Stephen's Hospital was declared by GNCTD as COVID designated hospital. Therefore, the employees of this hospital were under high risk of getting infected by the Corona virus due to COVID patients visiting this hospital. The GoM noted that doctor and paramedical staff working in non-Govt. health hospitals which were designated by the Govt. as Covid hospital/facility or whose beds were officially requisitioned/reserved by the Govt. for managing the Covid would also be considered on Covid duty and therefore, unanimously **recommended** the case for grant of ex-gratia amount of Rs. One Crore to the family members of the deceased in the prescribed ratio.
	Last duty performed	-------------	
	Date of covid positive	29.05.2020	
	Date of Death	13.06.2020	
	Certification by the death audit committee	Certificate is given by Death Audit Committee .	
	Details of Beneficiaries		

11. The above recommendation states that the St. Stephen's Hospital had been converted into a designated COVID hospital by GNCTD, and even before this designation, COVID-positive patients were receiving treatment there. Further, this meant that employees of the said hospital were at a higher risk of contracting the virus due to the presence of COVID patients. In terms of the above decision, the GoM has also acknowledged that doctors and paramedical staff in non-governmental health hospitals, which were similarly designated or had beds requisitioned by the government for

COVID management, would also be considered as being on COVID duty. Therefore, the GoM has unanimously recommended the grant of an *ex-gratia* amount of Rs.1 crore to the deceased's family members in the prescribed ratio.

12. The deceased has left behind two legal heirs- one Ms. Rakhi Bhisht, the wife of the deceased and second, Mr. Saksham Bhisht, the son of the deceased. Ld. Counsel submits that both legal heirs be released 50% of the amount of Rs. 1 crore. Accordingly, let Rs. 50 lakhs be released in favour of the wife and son. The amount of 50% of the *ex-gratia* payment shall be retained in an FDR for the welfare of the son. The sum of Rs.1 crore be deposited in the bank accounts of the wife and the son of the deceased, the details of which are given below:

Ms. Rakhi Bhisht
ICICI Bank
A/c 015401527319
IFSC ICIC0000154

Mr. Saksham Bhisht
Yes Bank
A/c 038853100000620
IFSC YESB0000388

13. The said amount shall be remitted to the Petitioner by 24th December, 2023.

14. Accordingly, the present petition, along with all pending applications, is disposed of.

PRATHIBA M. SINGH
JUDGE

SEPTEMBER 21, 2023
dj/dn