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

Date of Decision: 21st September, 2023

+ **W.P.(C) 5081/2023**

ARPITA GHOSH AND ANR.

..... Petitioners

Through: Mr. Gaurav Jain, Mr. Gaurav Singh &
Mr. Naveen Chaudhary, Advocates.
(M:7065770239)

versus

GOVT. OF NCT OF DELHI AND ANR.

..... Respondents

Through: Mr. Satyakam Advocate ASC for R –
1&2 (M: 9643238429)

CORAM:

JUSTICE PRATHIBA M. SINGH

Prathiba M. Singh, J. (Oral)

1. This hearing has been done through hybrid mode.
2. The Petitioners, namely, Petitioner No. 1-Arpita Ghosh and Abhijeet Ghosh have filed the present petition seeking the release of *ex-gratia* compensation in terms of the Cabinet Decision No. 2835 dated 13th May, 2020. As per the said decision, the Respondent No. 1-GNCTD had decided to grant Rs.1 crore *ex-gratia* compensation for the families of individuals who passed away while deployed for COVID-19 duty.
3. The Petitioners are legal heirs/children of Dr. Ujjwal Kumar Ghosh (hereinafter, '*the deceased*') who was treating COVID-19 patients at Aam Aadmi Mohalla Clinic ('AAMC') situated in Dichaon Kalan, New Delhi. It is stated that the deceased was empanelled as a doctor for the AAMC, Dichaon Kalan on 27th December, 2019, and served until 11th June 2020.
4. Between 21st May 2020, and 11th June 2020 (shortly before his hospitalization), it is stated that the deceased attended to 2689 patients. The deceased tested positive for COVID-19 after undergoing tests on 13th June



2020. The results, confirming their positive status, were received on 14th June 2020. Due to serious health complications the deceased had to hospitalised on 12th June 2020, and on 15th June, 2020 he passed away. The Petitioners have also placed on record the '*Certification of Death due to COVID*' dated 10th December 2020, wherein it has been stated that the deceased died due to COVID-19.

5. 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.

6. Petitioners are stated to have been regularly following-up for the release of *ex-gratia* compensation since July 2020. It is stated that the Petitioner's Personal Accident Insurance Claim Form was filed on 13th July 2020, making the Petitioner eligible to receive a claim amount of Rs. 50 Lakhs under Pradhan Mantri Garib Kalyan Package ('*PMGKP*'). They also claimed to have filed a detailed representation dated 29th January 2023 before the Chief Minister seeking the release of the grant of *ex-gratia* compensation.

7. Thereafter, vide communication dated 15th March 2023, it was informed that the deceased's case for grant of *ex-gratia* compensation was still pending, and reply was awaited by the Revenue Department, as some documents were required from CDMO, South West District. The said communication reads as follows:



“Sir/Madam,

*This is with reference to your representation dated 29.01.2023 regarding subject cited above, received in this office from Dy Secretary (Covid), Department of Health & Family Welfare, GNCTD vide letter bearing F No.76/H&FW/Covid-19/2022/CD#112711152/531-532 dated 15.02.2023. **In this regard, it is to inform that the case file of Late Dr Ujjal Kumar Ghosh for grant of ex-gratia of Rs. One Crore was received in this office on 01.04.2022 and a letter dated 27.04.2022 was sent to the CDMO, South West District for seeking some documents in the matter. The reply in this regard is still awaited.** This is for your kind information.”*

8. It is Petitioners’ grievance that despite repeated representations having been made, and the factum of the deceased’s service not in dispute, the *ex-gratia* compensation is not being released.

9. Moreover, the Petitioners’ case is that the amount liable to be received by the Petitioners under the Pradhan Mantri Garib Kalyan Package (‘PMGKP’), which is also routed through the Delhi Government, has also not been received. The said Scheme provides accident insurance coverage for loss of life due to COVID-19 and accidental death resulting from COVID-19 related duties. The Scheme is also stated to cover various healthcare providers, including community health workers, who are in direct contact with and care for COVID-19 patients, putting them at risk, including private hospital staff, as well as retired, volunteer, local urban bodies, contracted staff requisitioned by government hospitals.

10. Vide order dated 21st April 2023, this Court directed Respondent-1 to file a detailed affidavit explaining why the compensation as per the Cabinet



Decision and the amounts under the PMGKP have not been released in this case.

11. The Court was of the opinion that the Petitioners' deceased father was a doctor, and in terms of the Cabinet Decision, any doctor, nurse or paramedical staff deputed for COVID-19 duties is entitled to *ex-gratia* compensation. Thus, there was no reason forthcoming as to why there is so much delay in releasing the compensation.

12. Thereafter, on 4th September 2023, Id. ASC submitted that the GoM meeting to consider grant of COVID-19 *ex-gratia* compensation was scheduled for 13th September 2023.

13. Today, Mr. Satyakam, Id. ASC for the GNCTD has submitted that the GoM meeting took place on 13th September, 2023 and the deceased case has been unanimously recommended for grant of *ex-gratia* compensation of Rs.1 crore to the family members of the deceased. 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	Dr. Ujjal Kumar Ghosh Empanelled Doctor	As per directions of the Hon'ble High Court, the case of Late Dr. Ujjal Kumar Ghosh was placed before the Group of Ministers in the meeting. The Group of Ministers has taken a view that during COVID pandemic Delhi Govt. has pressed into the services its health facilities for handling the COVID. The doctors/employees of Aam Aadmi Mohalla Clinic
	Department	Directorate of Health Services	
	Place of Duty	Aam Aadmi Mohalla Clinic, Dichaon Kalan	
	Order regarding assignment of COVID related duties	As per statement, "The late Dr. Ujjal Kumar Ghosh was appointed as Emp. Doctor for AAMC by SNO/SPO AAMC Cell Dwarka and posted at AAMC Dichaon Kalan in South West District." As per note of Administrative department, "Furthermore the CDMO SWD also directed the late	



	Dr. U.K. Ghosh to work in AAMC Dichaon Kalan only as per the direction of SPO AAMC Cell Dwarka.” As per statement, “However, the quarantine centres and testing centres are also functioning in the South West district; the CDMO (SWD) never detailed late Dr. U.K. Ghosh to work in the above centres. He was performing his duties at the AAMC Dichaon Kalan only.” Further, as per statement, “the doctor was posted in AAMC/Mohalla Clinic which is not a dedicated COVID centre but at the same time, since heavy OPD was there in AAMCs during COVID-19 pandemic, it cannot be ruled out that doctor/paramedics did not acquire infection from AAMC.”	were working under high risk of getting infected by the COVID-19 as the patients, including having high fever were continuously visiting these health facilities on large scale for their treatment. Therefore, the duty of such employees also be considered as COVID-19 duty. <u>Accordingly, the Group of Ministers 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.</u>
Last duty performed	11.06.2020	
Date of Covid positive	14.06.2020	
Date of Death	15.06.2020	
Certification by the death audit committee	Certificate is given by Death Audit Committee .	
Details of Beneficiary		

14. In terms of the above, the GoM noted that the doctors/employees of AAMC were working under high risk of getting infected by the COVID-19 as the patients, including having high fever were continuously visiting these health facilities on large scale for their treatment. Therefore, the duty of such employees also be considered as COVID-19 duty. Accordingly, the GoM



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.

15. The deceased has left behind two children namely, Ms. Arpita Ghosh and Mr. Abhijeet Ghosh i.e. the Petitioners. In view of the fact that even the spouse of the deceased is no more, the *ex-gratia* amount of Rs. 50 lakhs shall be paid to each of the legal heirs/Petitioners into their bank accounts.

16. The details of the bank account of the Petitioners are given below:

Ms. Arpita Ghosh
IDFC First, Dwarka Branch
A/c 10062318518
IFSC IDFB0020106

Mr. Abhijeet Ghosh
Kotak Mahindra Bank, Sector-11 Dwarka Branch
A/c 2512217297
IDFC KKBK0004616

17. The said amounts shall be remitted to the Petitioners by 24th December, 2023.

18. Insofar as the prayer of the Petitioners for release of the amount under the PMGKP Scheme, the present petition shall be treated as a representation and shall be considered by the GNCTD/Union of India in accordance with law.

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

PRATHIBA M. SINGH
JUDGE

SEPTEMBER 21, 2023
dj/dn