



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

Date of decision: 18th OCTOBER, 2023

IN THE MATTER OF:

+ **W.P.(C) 4912/2021**

SANGEETA WAHI

..... Petitioner

Through: Ms. Anu Mehta and Mr. Rubinder
Ghumman, Advs.

versus

UNION OF INDIA AND ORS

..... Respondents

Through: Ms. Hetu Arora Sethi, ASC-GNCTD
with Ms. Kavita Nailwal, Adv. for
GNCTD.

Mr. Jaswinder Singh, Adv. for R-1
and 4.

Mr. Abhishek Mishra, Adv. for
Respondent No. 5.

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

JUDGMENT

1. The Petitioner, a widow of a Security Guard deployed in Safdarjung Hospital during Covid-19 Pandemic who lost his life during the Covid-19 Pandemic in line of duty, has approached this Court claiming the benefit of an insurance package announced by the Central Government under the "*Pradhan Mantri Garib Kalyan Package: Insurance scheme for health workers fighting COVID-19*". She also claims the benefits of the Scheme announced by the Department of Health and Family Welfare, Government of NCT for grant of ex-gratia compensation of Rs.1 crore to the families of the employees who died of Covid-19 while on Covid-19 duty.



2. It is stated that the Petitioner's husband - late Dilip Kumar, was working as a Security Guard in the Safdarjung Hospital wherein he was deployed at the Hospital's OPD Building patient registration counter. It is stated that Petitioner's husband contracted Covid-19 and passed away on 14.06.2020. It is stated that he was brought dead to the hospital. It is the contention of the Petitioner that she is entitled to the benefit of "*Pradhan Mantri Garib Kalyan Package: Insurance scheme for health workers fighting COVID-19*" announced by the Central Government and also to the benefits of the Scheme announced by the Department of Health and Family Welfare, Government of NCT for grant of ex-gratia compensation of Rs.1 crore to the families of the employees, including any person attending Covid-19 patients including Doctor, Nurse, Para-Medical Staff, Sweeper, or any other staff, whether temporary or permanent employee in Government of Private Sector, who died of Covid-19 while on Covid-19 duty. It is stated that since the husband of the Petitioner was working in a Government Hospital which was admitting Covid-19 patients, he falls under the category of persons who died by contracting Covid-19 while discharging their duty and, therefore, the Petitioner is entitled to the benefit of the Scheme announced by the Central Government as well as the State Government.

3. It is stated that since the benefit of the Schemes were not extended to the Petitioner, a legal notice was sent by the Petitioner to the Special Secretary, GNCTD; Medical Superintendent, Safdarjung Hospital and the District Magistrate, New Delhi, calling upon them to extend the benefit of the Scheme announced by the Department of Health and Family Welfare, Government of NCT for grant of ex-gratia compensation of Rs.1 crore to the families of the employees who died of Covid-19 while on Covid-19 duty. It



is stated that in response to the said legal notice, a reply was received from the Additional Medical Superintendent, Safdarjung Hospital, stating that since the Petitioner's husband was not deployed for the care of Covid-19 patients directly, he will not be covered under the "*Pradhan Mantri Garib Kalyan Package: Insurance scheme for health workers fighting COVID-19*". Aggrieved by the in-action on the part of the State Government and refusal on the part of the Central Government, the Petitioner has approached this Court by filing the instant Writ Petition for grant of compensation.

4. Counter affidavit has been filed by Respondents No.1, 3, 4, being the Union of India, the Director General of Health Services and the Medical Superintendent, Safdarjung Hospital respectively, and also by Respondent No.5, being the New India Assurance Company Ltd.

5. It is the stand of the Respondents No.1, 3 & 4 that the Safdarjung Hospital had outsourced the security services of the Vardhman Mahavir Medical College & Safdarjung Hospital through M/s Trig Detectives (P) Ltd. for providing Security Guards, Security Supervisors and QRT (Guards). It is stated that Respondents No.3 & 4 are not involved in the recruitment/deployment of Security Guards. It is stated that on 14.06.2020 at 4:00 PM, the late husband of the Petitioner herein, i.e. Dilip Kumar, was brought to the casualty of Safdarjung Hospital in an unconscious condition. It is stated that he was declared brought dead by the attending doctor and his Covid Sample was taken and his dead body was sent to the Mortuary. It is the stand of the Central Government that the late husband of the Petitioner herein was not deployed for the care of Covid-19 patients and, therefore, the Petitioner would not be entitled to the "*Pradhan Mantri Garib Kalyan Package: Insurance scheme for health workers fighting COVID-19*". The



counter affidavit indicates that the “*Pradhan Mantri Garib Kalyan Package: Insurance scheme for health workers fighting COVID-19*” seeks to provide comprehensive personal accident cover of Rs. 50 lakh to 22.12 lakh healthcare providers, including community health workers and private health workers drafted by the Government for Covid-19 related responsibilities, who have to be in direct contact and care of Covid-19 patients and who may be at the risk of contracting Covid-19. It is stated that the Safdarjung Hospital has a dedicated separate building i.e SSB (Super Specialty Building) and SARI ward of New Emergency Building for suspected COVID-19 patients and a fever screening centre in Old Casualty Area was functioning for suspected patients. It is stated that since the late husband of the Petitioner was posted in the OPD Registration counter area he was not in direct contact of Covid-19 patients and, therefore, he was not covered under the Scheme. It is stated that the Insurance Scheme has to be strictly followed and under the Scheme only those health workers who come into direct contact and care of Covid-19 Patients will be covered under the Scheme and since the late husband of the Petitioner was not in direct contact of Covid-19 patients he would not covered under the Scheme.

6. It is the stand of the State Government that the Scheme announced by the Department of Health and Family Welfare, Government of NCT for grant of ex-gratia compensation of Rs.1 crore will apply only to the families of those employees who died of Covid-19 while on Covid-19 duty and were deployed by the State Government. Since the late husband of the Petitioner herein was engaged on contractual basis by the Safdarjung Hospital, which comes under the Central Government, and since he was not performing any kind of Covid-19 duty under the State Government, his case would not be



covered by under the Scheme announced by the Department of Health and Family Welfare, Government of NCT, for grant of ex-gratia compensation of Rs.1 crore to the families of the employees who died of Covid-19 while on Covid-19 duty.

7. Heard the Counsels and perused the material on record.
8. Covid-19 Pandemic struck the country in March, 2020. Lakhs of persons lost their lives in the Pandemic. Police officials, healthcare workers, Doctors, Paramedics, etc. were braving the Pandemic and were in the line of duty to provide assistance to persons who fell victims to the life taking virus. Concerns had been raised regarding the country's healthcare system and its capacity to cope with the massive outbreak. Doctors, nurses, paramedical staff, including security staff in various hospitals, were working day and night to streamline the patients to ensure that the patients are screened at the earliest and are quarantined so that the virus does not spread. Persons who were affected by any fever were in a state of panic and not knowing what is to be done, they were rushing to hospitals not knowing where to go and whom to meet. People were crowding OPDs and the causality in the hospital to get themselves screened. At this juncture, it was these security guards, paramedical staff, who not only to ensured the safety of the hospitals but were also acting as guides by directing the patients to approach the correct centre. It, therefore, cannot be said that the security guards who were posted at various places were not in direct contact of Covid-19 patients. It is well known that Covid-19 virus spread through air and any patient who was coming to the hospital could have been infected by the virus, whether he/she was symptomatic or not. The patients got in touch with many service providers, be it security guards, nurses, paramedical staff, who might or



might not have been posted in the Covid-19 ward. The Central Government, therefore, cannot take such a narrow approach that only such persons who were posted in the Covid-19 ward or centre only will be covered by the “*Pradhan Mantri Garib Kalyan Package: Insurance scheme for health workers fighting COVID-19*”. The Scheme was actually brought out as a measure to benefit the family members of persons who became martyrs in the line of duty while protecting thousands of persons affected by Covid-19 Pandemic. Taking such a narrow view actually goes against the spirit of the Scheme which was meant to provide immediate relief to persons who were tackling the situation and were protecting the lives of thousands of patients. This Court can take judicial notice of the fact that any person having mildest of the symptoms of Covid-19 was getting himself/herself tested. Poor people who could not afford private testing centres were rushing to the Government hospitals. A normal person would never know that there is a special Covid-19 ward and his normal reaction would be to approach either the OPD desk or the casualty of the hospital to meet the Doctor. At that point of time, to streamline the queue, the services of the security guards were availed. The security guards were also directing the people to the Departments where the patients have to approach in order to get themselves treated. It, therefore, cannot be said that the late husband of the Petitioner herein, who died of Covid-19 which he may have contracted in the Hospital, was not in direct contact with the Covid-19 patients.

9. The Scheme has been brought out as a social welfare scheme and application of such schemes are not to be put in Procrustean beds or shrunk to Liliputian dimensions. Welfare Schemes must necessarily receive a broad interpretation. Where Scheme is designed to give relief, the Court should not



be inclined to make etymological excursions [refer: Workmen v. American Express International Banking Corpn., (1985) 4 SCC 71].

10. The Apex Court in Regl. Provident Fund Commr. v. Hooghly Mills Co. Ltd., (2012) 2 SCC 489, has observed as under:

"24. If we look at the modern legislative trend we will discern that there is a large volume of legislation enacted with the purpose of introducing social reform by improving the conditions of certain class of persons who might not have been fairly treated in the past. These statutes are normally called remedial statutes or social welfare legislation, whereas penal statutes are sometime enacted providing for penalties for disobedience of laws making those who disobey, liable to imprisonment, fine, forfeiture or other penalty.

25. The normal canon of interpretation is that a remedial statute receives liberal construction whereas a penal statute calls for strict construction. In the cases of remedial statutes, if there is any doubt, the same is resolved in favour of the class of persons for whose benefit the statute is enacted, but in cases of penal statutes if there is any doubt the same is normally resolved in favour of the alleged offender.

26. It is no doubt true that the said Act effectuates the economic message of the Constitution as articulated in the directive principles of State policy. Under the directive principles the State has the obligation for securing just and humane conditions of work which includes a living wage and decent standard of life. The said Act obviously seeks to promote those goals. Therefore, the interpretation of the said Act must not only be liberal but it must be informed by the values of the directive principles. Therefore, an awareness of the social perspective of the Act must guide the interpretative process of the legislative device."



11. In view of the above, the narrow and pedantic stand taken by the Central Government cannot be accepted and the Petitioner is entitled to the benefit of *“Pradhan Mantri Garib Kalyan Package: Insurance scheme for health workers fighting COVID-19”*.

12. As far as the question as to whether the late husband of the Petitioner herein would be entitled to the Scheme announced by the Department of Health and Family Welfare, Government of NCT for grant of ex-gratia compensation of Rs.1 crore to the families of the employees who died of Covid-19 while on Covid-19 duty. On 07.04.2020, the GNCTD brought out the following circular:

“Subject: - Awarding compensation to family of employees who die of COVID 19 disease while on COVID 19 duty.

The Government of NCT of Delhi vide Cabinet Decision NO. 2819 dated 01.04-2020 has approved as follows: -

Any person attending COVID 19 patients including Doctor, Nurse, Para-Medical-Staff, Sweeper or any other staff, whether temporary or permanent employee, in Government or Private Sector, if expire by contracting the disease during discharge of his/ her duty, his/ her family shall be compensated with ex gratia amount of Rupees One Crore, posthumously. Upon, receiving the recommendation from the Medical Superintendent/HOD/Incharge of the Hospital/Medical Institution, the recommendation will be processed by Health & Family Welfare Department, GNCT of Delhi and shall be put up through Minister (H&FW) for the approval Of Hon’ble Chief Minister.”

13. A perusal of the said circular shows that any person attending Covid-19 patients including Doctor, Nurse, Para-Medical-Staff, Sweeper or any



other staff, whether temporary or permanent employee, in Government or Private Sector, if passes away by contracting the disease during discharge of his/ her duty then his/ her family shall be compensated with ex gratia amount of Rupees One Crore, posthumously. The late husband of the Petitioner herein would have been covered by the said circular. However, the said circular was modified by a Cabinet decision dated 13.05.2020 which reads as under:

“CABINET DECISION NO. 2835 DATED 13.05.2020

Subject: Cabinet Note regarding awarding compensation to family of employees who die of the disease while on COVID 19 duty.

*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 same 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.”
(emphasis supplied)

14. There seems to be a shift in the stand of the State Government and it has restricted the scope of its Scheme to only such persons who were deployed by the Government of NCT of Delhi. The same stand has been reiterated in its decision dated 27.07.2020 which reads as under:

“Dated: 27.07.2020

The Cabinet vide Cabinet Decision No. 2835 dated 13.05.2020 decided that if any person including Doctor, Nurse, Para Medical Staff, Security/Sanitation Staff or any other Govt. Officer/Official including Police Officer/Official, whether temporary or permanent employee or Contractual in any Govt. or Private Sector, deployed for COVID-19 Duties by Govt. of NCT of Delhi, expires by contracting the disease during discharge of his duties, his/her family shall be paid an ex-gratia of amount One Crore, posthumously.

The concerned Department/Agency where the person was employed, will submit the case with their recommendation, enclosing the report of Death Audit Committee and report of Medical Superintendent/Incharge of the Hospital/Medical Institution to the Revenue Department, GNCTD for further processing.

It is observed that the Administrative Departments of the deceased send the case without enclosing the requisite documents, which causes delay in processing the same. It is therefore, requested that all the Departments of GNCTD while forwarding the case for grant of ex-gratia under the above Cabinet Decision,



the same may be sent alongwith the following documents:-

- 1. Report of Death Audit Committee*
- 2. Report of Medical Superintendent/In-Charge of the Hospital/Medical Institution.*
- 3. Clear Information regarding bonafide beneficiary*
- 4. Cancelled Cheque in r/o Parents and Spouse.*
- 5. Complete Account details in r/o Parents and Spouse of the deceased,*
- 6. Copy of Aadhar Card of Parents and Spouse.*

All the documents must be duly attested by the H.O.D

This issues with the prior approval of Competent Authority”

15. Petitioner’s late husband was a contractual employee, whose services were outsourced by the Safdarjung Hospital, which is a Central Government Hospital. Since the Petitioner was not employed by the GNCTD, this Court is not inclined to extend the benefit of the Scheme announced by the Government of NCT of Delhi by passing a writ. However, as stated in the circular dated 27.07.2020, that the Administrative Departments of the deceased can send the names of those persons who have passed away by contracting the disease during discharge of their duties for payment of an ex-gratia of amount of One Crore, posthumously, along with the requisite documents which are as under:

“1. Report of Death Audit Committee



2. Report of Medical Superintendent/In-Charge of the Hospital/Medical Institution.

3. Clear Information regarding bonafide beneficiary

4. Cancelled Cheque in r/o Parents and Spouse.

5. Complete Account details in r/o Parents and Spouse of the deceased,

6. Copy of Aadhar Card of Parents and Spouse.”

16. Medical Superintendent, Safdarjung Hospital, is, therefore, directed to send the abovementioned documents of the late husband of the Petitioner herein to the GNCTD and upon receipt of these documents, the GNCTD is directed to examine the case of the late husband of the Petitioner herein sympathetically keeping in mind the fact that the Petitioner's husband has lost his life in the line of duty.

17. Respondents No.1, 3 & 4 are directed to release the amount of Rs.50 lakhs in favour of the Petitioner herein within eight weeks from the date of this Order.

18. With these observations and directions, the Writ Petition is disposed of. Pending applications, if any, also stands disposed of.

SUBRAMONIUM PRASAD, J

OCTOBER 18, 2023

Rahul