



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

Date of decision: 01st DECEMBER, 2023

IN THE MATTER OF:

+ **W.P.(C) 7768/2023**

GEETA

..... Petitioner

Through: Mr. Chirayu Jain, Advocate

versus

DELHI BUILDING AND OTHER CONSTRUCTION WORKERS
BOARD

..... Respondent

Through: Mr. Shaurabh Yadav, Advocate for
Mr. Abhay Dixit, Advocate

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

JUDGMENT

1. The Petitioner has approached this Court invoking Article 227 of the Constitution of India challenging the Order dated 17.03.2023 passed by the Delhi Building & Other Construction Workers Welfare Board denying the Petitioner the benefit of the death and funeral claims of the Petitioner on the ground that late Banwari Lal, i.e., husband of the Petitioner, was not a live member at the time of the claim.
2. The facts in brief, leading to the present writ petition are that late Banwari Lal (Petitioner's husband), who was working as a *Raj Mistri*, was registered as a beneficiary under the Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996 (*hereinafter referred to as 'the Act'*).
3. It is stated that the Petitioner's husband got himself registered under the Act in the year 2011 and he was regularly paying the annual contribution



till the year 2018. It is stated that post 2018, due to extreme shortage of staff in the Respondent/department, a number of workers like the Petitioner's husband could not get their registration renewed. It is stated that the Petitioner's husband tried to renew his registration multiple times during 2018-19 but he was unable to do so. It is stated that about five lakh workers who were registered as beneficiaries till 2018 lost their registration.

4. Material on record indicates that the Secretary of the Board had written letters to the Services Department lamenting about the situation and in May, 2020, post the Order dated 20.05.2020 passed by this Court in Sunil Kumar Aledia v. Govt. of NCT of Delhi & Ors., W.P.(C)2991/2020, the registration process were put in place.

5. It is stated that the Petitioner's husband contracted cancer in the year 2020 and he passed away on 26.04.2021. Being the widow of the late Banwari Lal, the Petitioner herein applied for death and funeral claims under Rule 227-279 of the Delhi Building and Other Construction Workers Rules, 2002 (*hereinafter referred to as 'the Rules'*). Since the Petitioner's husband had not made the payments, he ceased to be a beneficiary and, therefore, the Petitioner herein also moved an application for restoration of the membership.

6. Material on record indicates that Petitioner also filed several representations for restoration of membership. The Petitioner also approached this Court by filing W.P.(C) 15260/2022 for a direction to dispose of the applications made by the Petitioner under Section 17 of the Act, which was allowed by this Court vide Order dated 04.11.2022.

7. In compliance of the orders of this Court, the Petitioner's application was rejected on 17.03.2023 stating that since the Petitioner's husband was



not regular in making his payments, he ceased to be live member at the time of his death. Therefore, the Petitioner was disentitled from claiming the benefits under the Act. It is this order which is under challenge in the instant writ petition.

8. Learned Counsel for the Petitioner draws the attention of this Court to Section 17 of the Act and states that the proviso to Section 17 provides that if the Secretary of the Board is satisfied that the non-payment of contribution was for a reasonable ground and that the building worker is willing to deposit the arrears, he may allow the building worker to deposit the contribution in arrears and on such deposit being made, registration of the building worker shall stand restored.

9. Learned Counsel for the Petitioner states that from the year 2018-2020, the Petitioner's husband could not make payments because of lack of staff in the Respondent/department and the number of members got reduced from 5 lakhs to a few thousands. It is stated that the Petitioner filed several representations to the Respondent as the Petitioner's husband was not in a position to pay the amount due to non-renewal of his registration.

10. *Per contra*, learned Counsel for the Respondent relies on Section 14 and Section 17 of the Act. He contends that Section 14 of the Act provides that if a building worker who has been registered as a beneficiary under the Act shall cease to be a beneficiary if he attains the age of 60 years or when he is not engaged in building or other construction work for not less than 90 days in a year. He further contends that the main part of Section 17 of the Act states that continuous non-payment of membership fee for a period of not less than one year shall entail cessation of membership.

11. Heard the Counsels for the parties and perused the material on record.



12. Material on record discloses the Petitioner's husband was regular in payment since 2011 to 2018. The Petitioner has placed material on record to show that there was indeed dearth of personnel in the department and that people were facing genuine difficulties. The Petitioner's husband did contract cancer in the year 2021 and he passed away because of cancer.

13. The Delhi Building and Other Construction Workers Act, 1996 is a beneficial legislation. Its aim is to benefit of construction workers who do not have any form of security. The Apex Court has succinctly held that a beneficial legislation must be construed liberally and must be interpreted in a manner which advances the purpose for which the legislation was enacted. In Asger Ibrahim Amin v. LIC, (2016) 13 SCC 797, the Apex Court has observed as under:-

*"19. The legal position deducible from the above observations further amplifies that the so-called resignation tendered by the appellant was after satisfactorily serving the period of 20 years ordinarily qualifying or enabling voluntary retirement. Furthermore, while there was no compulsion to do so, a waiver of the three months' notice period was granted by the respondent Corporation. **The State being a model employer should construe the provisions of a beneficial legislation in a way that extends the benefit to its employees, instead of curtailing it.**"* (emphasis supplied)

In Rita Devi v. New India Assurance Co. Ltd., (2000) 5 SCC 113, the Apex Court held as under:-

"16. In the case of Shivaji Dayanu Patil v. Vatschala Uttam More [(1991) 3 SCC 530 : 1991 SCC (Cri) 865] this Court while pronouncing on the interpretation of



Section 92-A of the Motor Vehicles Act, 1939 held as follows : (SCC p. 532, para 12)

*“... Section 92-A was in the nature of a beneficial legislation enacted with a view to confer the benefit of expeditious payment of a limited amount by way of compensation to the victims of an accident arising out of the use of a motor vehicle on the basis of no-fault liability. In the matter of interpretation of a beneficial legislation the approach of the courts is to adopt a construction **which advances the beneficent purpose underlying the enactment in preference to a construction which tends to defeat that purpose.**”*

(emphasis supplied)

Similarly, in Transport Corpn. of India v. ESI Corpn. (2000) 1 SCC 332, the Apex Court held as under:-

*“27. Before parting with the discussion on this point, it is necessary to keep in view the salient fact that the Act is a beneficial piece of legislation intended to provide benefits to employees in case of sickness, maternity, employment injury and for certain other matters in relation thereto. It is enacted with a view to ensuring social welfare and for providing safe insurance cover to employees who were likely to suffer from various physical illnesses during the course of their employment. **Such a beneficial piece of legislation has to be construed in its correct perspective so as to fructify the legislative intention underlying its enactment. When two views are possible on its applicability to a given set of employees, that view which furthers the legislative intention should be preferred to the one which would frustrate it. ...***

28. Dealing with this very Act, a three-Judge Bench of this Court in Buckingham and Carnatic Co.



Ltd. v. Venkatiah [AIR 1964 SC 1272] speaking through Gajendragadkar, J., (as he then was) held, accepting the contention of the learned counsel, Mr. Dolia that : (AIR p. 1277, para 10)

‘10. ... It is a piece of social legislation intended to confer specified benefits on workmen to whom it applies, and so, it would be inappropriate to attempt to construe the relevant provisions in a technical or a narrow sense. This position cannot be disputed. But in dealing with the plea raised by Mr. Dolia that the section should be liberally construed, we cannot overlook the fact that the liberal construction must ultimately flow from the words used in the section. If the words used in the section are capable of two constructions one of which is shown patently to assist the achievement of the object of the Act, courts would be justified in preferring that construction to the other which may not be able to further the object of the Act.’” (emphasis supplied)

14. In view of the fact that the Petitioner is prepared to pay the amount for 2018 to 2022 and the proviso in Section 17 of the Act gives power to the Secretary of the Board to condone the delay, this Court finds it fit case to exercise its jurisdiction under Article 226 of the Constitution of India and to allow the claim made by the Petitioner, who is the widow and is claiming benefit under the Act, which is a beneficial legislation. Failure to do so would defeat the purpose of the Act for which it has been brought into force. It cannot be said that the Petitioner's husband was negligent in paying the amount in view of the fact that he was regular in making payments from 2011 to 2018, i.e., 7 years, and for workers like the Petitioner's husband, the benefit of the Act must be given. The Petitioner cannot be left remediless,



otherwise the object for which the Act for which it has been brought into effect will be defeated.

15. With these observations, the writ petition is allowed. Pending application(s), if any, stand disposed of.

SUBRAMONIUM PRASAD, J

DECEMBER 01 2023

hsk