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IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of Decision:- 29th May, 2023.

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W.P.(C) 8966/2021

RAM SHREE

..... Petitioner

Through: Mr. Chirayu Jain & Ms. Sakshi
Dewangan, Advs.

versus

**DELHI BUILDING AND OTHER CONSTRUCTION WORKERS
WELFARE BOARD & ANR.**

..... Respondents

Through: Mr. Abhay Dixit and Mr. Ankit
Kumar, Advocates for R-1.

CORAM:

JUSTICE PRATHIBA M. SINGH

Prathiba M. Singh, J. (Oral)

1. This hearing has been done through hybrid mode.

Brief Facts

2. The present petition relates to the release of pension arrears to the family of Late Sh. Ram Manohar (hereinafter, '*the deceased*') who was a construction worker.

3. The case of the Petitioner- Smt. Ram Shree, who is the wife of the deceased, is that he was duly registered with the Respondent No. 1 - Delhi Building and Other Construction Workers Welfare Board (*hereinafter, 'BOCW Board'*) under the Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996 (*hereinafter, 'BOCW Act, 1996'*) from 10th January 2014 till 2018. He superannuated on 10th June 2018 and filed his pension application on 27th September 2019. According to the Petitioner, the same was not processed between 2019-2020. In the intervening period, Petitioner's husband passed

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away on 10th June 2020.

4. Vide order dated 22nd May 2020 in ***W.P.(C) 3001/2020*** titled ***Jai Pal v. Delhi Building and Other Construction Workers Welfare Board***, this Court emphasised the need for adequate staff and officers to address the pending applications of building and construction workers. The Court directed the Respondent No. 1 to expedite the process within four weeks, releasing benefits if eligible and providing reasons for rejections. It also urged the Respondent No. 1 to ensure that sufficient staff and officers were provided to expedite the verification process for both pending and new applications for pensionary benefits under the Scheme announced for the workers. The following order was passed:

“2. At the outset, the learned counsel for the petitioners submits that majority of the grievances raised by the petitioners have been addressed by the Division Bench of this Court in its order dated 20.05.2020 passed in W.P.(C) 2991/2020, Sunil Kumar Aledia vs. Govt. Of NCT of Delhi & Ors.

3. The learned counsel for the petitioners further submits that while the petitioner no. 4 has received the pensionary benefits after the filing of the petition, however, so far as the other 118 workers similarly situated, details of whom were provided to the respondent no. 1 pursuant to the order dated 27.04.2020 of this Court, the Status Report filed by the respondent no.1 discloses that the status of the applications of 91 workers could not be ascertained as their files are lying in the concerned district office(s).

4. Keeping in view the hardship that must presently be faced by these workmen due to the Covid-19 pandemic, the respondent no. 1 is directed to expedite the process of scrutinizing the applications of these 91 workers and take a decision thereon, positively



within a period of four weeks from today. In case these workers are found entitled to the pensionary benefits, the same be released to these workers within the same period. For the workers who are not found eligible, the respondent no.1 shall communicate the reasons for rejection of their applications to such workers and supply a copy thereof to the learned counsel for the petitioners, who may take it up with such workers for further course of action.

5. The learned counsel for the petitioners further submits that with respect to the 7 (seven) workers, details of whom had been supplied by the learned counsel for the petitioners, the Status Report supplied by the respondent no.1 records that their application has been rejected on the ground of age difference in their Voter ID Card, Aadhar Card and Bank Passbooks. She prays that such workers be granted an opportunity of filing further documents/representations before the respondent no. 1 to justify their claim.

6. Keeping in view the nature of the objection raised by the respondent no.1 as also the submission made by the learned counsel for the petitioners, it is directed that the respondent no.1 shall grant an opportunity to such workers to produce further documents/make representation to the respondent no. 1 in support of their claim. For this purpose, the respondent no.1 shall call upon such workers to appear before the concerned officer to produce such documents/representation. Notice of such hearing, apart from being directly communicated to such workers, should also be sent to the learned counsel for the petitioners who undertakes to communicate the same to the concerned workers.

7. The Status Report further reflects the remark "File already Sanctioned by RTGS not proceed" for 3 (three) workers. The learned counsel for the respondent no. 1 submits that there could be various



reasons for non-payment of the pensionary benefits to such workers, however, she presently does not have full instructions on the same.

8. The respondent no.1 is directed to release the pensionary benefit to such workers, if already sanctioned by it, within a period of two weeks from today. In case the same cannot be paid for any reason such as discrepancy in the bank account details etc, the respondent no.1 shall communicate such reasons to the learned counsel for the petitioners who has been requested to coordinate the release of payment with the respondent no. 1 and such workers.

9. As far as 17 other workers are concerned, the learned counsel for the petitioners submits that she has presently not received any instructions from them regarding receipt of the pensionary benefits. She prays for further time to seek such instructions.

10. At this stage, I may note that the learned counsel for the respondent no.1 has submitted that the delay in processing of the files is also taking place because of lack of adequate staff/officers in the respondent no.1.

11. Keeping in view that the claim in the present petition is for the lowest strata of the society who are most affected by Covid-19 pandemic and the consequent lockdown, it is hoped that the respondent no.2 shall ensure that adequate staff /officers are provided to the respondent no.1 to carry out the process of verification of the pending applications as also the new applications that would be received by it for grant of the benefits under the Scheme announced for the workers by the respondent no.2, as expeditiously as possible. For this purpose, the Delhi State Legal Services Authority is also requested to provide necessary assistance to the workers as also to the respondent no.1 in the process of verification.

12. A copy of this order be communicated to the Secretary, Delhi State Legal Services Authority for



information and necessary action thereon.

*13. List on 13th July, 2020 for reporting compliance.
The order shall be uploaded on the website and shall
also be provided to the learned counsels on the e-mail
address provided.”*

5. The pension application of the deceased was then processed, and a deficiency letter was issued only on 12th June 2020. On 10th June 2020, the deceased passed away, and his son approached the BOCW Board and supplied them with all the requisite documents. Another deficiency letter was raised, and the same was replied to by the Petitioner on 25th January 2021. Finally, the sanction was granted to the Petitioner on 7th September 2021 for a sum of Rs.90,000/-.

Submissions

6. Mr. Chirayu Jain, Id. Counsel appearing for the Petitioner relies upon various SOPs which have been issued by the BOCW Board in respect of death benefits, funeral assistance, pension benefits, maternity benefits, etc. to argue that the timelines prescribed under the Delhi (Right of Citizen to Time Bound Delivery of Services) Act, 2011 are not being complied with. He places specific reliance on the communication dated 12th January, 2023 issued by the Chairperson of the BOCW Board which records that there are unnecessary deficiencies being raised. All deficiencies are not raised in one go and delays are being caused in the disbursement of benefits to construction workers.

7. On the other hand, Id. Counsel appearing for the Respondents submits that in the case of construction workers, the submission of application is always not with the proper documentation or to the proper authority. He submits that now an online portal has been created to facilitate the application processing. He further submits that the BOCW Board has one Secretary who



is assisted by 11 Deputy Secretaries in separate districts. Since the applications are made directly to the Secretary instead of the concerned Deputy Secretary, there is a delay in processing the applications and granting the benefits.

Analysis and Findings

8. The Court has perused the documents and the order cited. Insofar as the pension benefits is concerned, the SOP of the BOCW Board reads as under:

“ANNEXURE -II

1. Name of the Service: Pension Benefit [Rule-273]

2. Category : G to C [G to C /G to B/G to G]

3. Documents required for the above service

a) Application in Form No. XXXV

b) Address proof in case of change of address

4.

Steps performed internally for the service	Time for each step/ task (in days)
- Receipt of application in the district concerned - Diary & entry of application in excel format and issuance of provisional receipt. - Forwarding to the verifying officer (IO / LO) of the concerned district.	08
- Verification / checking of documents by verifying officer (IO / LO) of the concerned district - If documents are not in order, informing short comings to worker - If documents are found in order, forwarding the same to the recommending officer / DLC through LO / ALC of the concerned district	20



● Recommendation by recommending officer/DLC of the concerned district ● Forwarding of same to the Board by concerned District for approval / sanction	20
● Scrutiny & preparation of bills by Accounts Officer. ● Approval of Competent Authority i.e. Secretary Board ● Release of payment to beneficiary through RTGS.	12
Total service delivery time	60

5. Pain areas / difficulties experienced by stakeholders for the above service: NIL

6. Details of the Nodal Officer who shall lead the change agenda for the above service:

Name: Dr. Rajender Dhar
Email ID: labjlc2.delhi@nic.in
Designation: Addl. L.C. / Secretary Board
Mob. No. 9810135369

9. The communication of 12th January 2023 relied upon by Id. counsel for the Petitioner, records as under:

"It has been recently brought to my notice that District offices of the Dethi Building and Other Construction Workers Welfare Board have not been disposing applications of welfare claims of construction workers. Due to this pendency at district offices is increasing at an alarming rate. In many instances reported to me, workers' claim applications are not even accepted at district offices so they do not reflect in actual pendency reports of the Board. Workers are given future dates to visit to submit their claims, which is unethical and unconstitutional behaviour on part of the Board staff. Where Delhi Building and Other Construction Welfare Board currently has 779369 live registered



construction workers, claim applications received last year are as low as 5515, out of which only a select few got sanctioned. No claims have been disbursed by the Board since 12th October 2022 which is very disappointing.

Construction workers represent the most poor and marginalized section of our society. When they come to apply for claims they have to forego their wages for the day. But, it looks like our staff doesn't understand their pain at all, which is reflected in the increasing pendency of claim applications.

We fail to realize how much the amount of maternity, marriage, education etc. matter to the construction worker who are in urgent and dire need of financial assistance from DBOCWWB. Engagement in over documentation and unnecessary delays in disposing claim applications defeats the purpose of setting up of DBOCWWB under The Building and Other Construction Workers Act, 1996.

Despite SOP being formed of clearing claim applications within one month from the date of their receipt, applications are still pending for months and in some cases for years at almost all district offices. This kind of deliberate carelessness and lacklustre attitude towards government service by Board staff would not be tolerated.

Therefore, to correct the functioning of the Board, it is directed:

- **To submit a report on pendency of welfare claim applications in each district offices stating reasons why SOP is being violated in the concerned districts.**
- **To take action against the officials who are causing the delay in clearance of welfare claim applications of poor construction labourers.**
- **Ensure clearance of all pending applications with Board as per SOP by 22nd January 2023.”**



10. The Delhi (Right of Citizen to Time Bound Delivery of Services) Act, 2011, Entry 372 specifies 30 days as the period during which the pension application has to be processed. However, the SOP of the BOCW Board, stipulates disposal within 60 days. Thus, it is clear that once a pension benefit application is made by the construction worker, bearing in mind the financial status of such workers, the said application ought to be processed without any delay.

11. The fact that in case of delay, interest is liable to be paid has been settled by the Id. Division Bench of this Court vide judgement dated 17th April, 2023 in *LPA 209/2023* titled ***Rajo v. Delhi Building and Other Construction Workers Welfare Board [2023/DHC/2581-DB]***. The relevant observations of the Id. Division Bench's order are set out below:

“12. As regards the alleged delay on the part of the respondent no.1 in processing the appellant's application for pension, it is pertinent to note that even though the appellant completed sixty years of age/superannuated on 01.01.2021, she submitted the application for sanction of pension only on 08.02.2022 i.e. more than 13 months after attaining the requisite age. It is also a matter of record, as noticed in the impugned judgment that the respondent no. 1 vide its letter dated 06.07.2022 pointed out certain deficiencies in the said pension application. The communication expressly referred to the fact that the labour card of the appellant was valid only till 13.12.2020. The said communication also requested the appellant to appear before the concerned Deputy Secretary (District-South), Delhi and provide necessary clarifications. This communication was responded to by the appellant on 05.08.2022. Thereafter, the respondent no. 1 sanctioned the pension on 06.01.2023. As rightly observed in the



impugned judgment, it was only after the requisite information was provided by the appellant on 05.08.2022, that the appellant's application for grant of pension could be processed. In view of the sequence of events and the factual position as emerges from the record, it cannot be said that the impugned judgment has incorrectly computed the period for which interest has been held to be payable.

13. The impugned judgment, taking into the account that the relevant rules do not provide any timeline within which an application for pension is to be processed, proceeded on the basis that the period of 45 days can be taken as a reasonable period for the respondent no.1 board to process the appellant's application for grant of pension. On that premise, the appellant has been granted interest @ 6% per annum on the delayed amount of pension w.e.f. 21.09.2022 (after excluding 45 days w.e.f. 05.08.2022). No fault can be found with the directions contained in the impugned judgment which are based on the peculiar facts and circumstances of the present case. "

12. Under these circumstances and keeping in mind the overall objective of the BOCW Act, the Delhi (Right of Citizen to Time Bound Delivery of Services) Act, 2011 as also the COVID-19 pandemic when a large disbursement was to be made to migrant workers, it is directed that interest at the rate of 6% shall be released to the Petitioner's family 45 days from the date the deficiencies in the pension application were cured till the date sanction was granted to the Petitioner i.e. from 10th March, 2021 till 7th September 2021.

13. The said release shall be given effect to by the BOCW Board by 1st July, 2023. After 1st July, 2023, if there is any delay, 6% interest would be



applicable for the period of delay. Considering the nature of this case, nominal costs of Rs.2,000/- are awarded in favour of the Petitioner.

14. The petition along with all pending applications is disposed of in the above terms.

PRATHIBA M. SINGH
JUDGE

MAY 29, 2023

Rahul/KT

(corrected & released on 12th June, 2023)

