



Judgment

21 wp 4443.23

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IN THE HIGH COURT OF JUDICATURE AT BOMBAY :
NAGPUR BENCH : NAGPUR.

WRIT PETITION NO. 4443/2023

Bhimrao Shamrao Guldevkar,
Aged about 74 yrs., Occ. Labour,
R/o. T-Point, Paras, Tq. Balapur,
Dist. Akola.

...PETITIONER.

VERSUS

1. Maharashtra State Power Generation
Company Ltd., through its -
 - (a) Executive Director (Human Resources)
having office at Prakashgad, 4th floor,
Bandra (East), Mumbai-400051.
 - (b) Chief Engineer (Paras TPS),
having office at Thermal Power
Station, Parasdeep, Vidyut Nagar,
Paras Tq. Balapur, Dist. Akola -
444109.
2. Extramech Engineering Pvt. Ltd.,
having its office at Kothari Vatika No.7,
Gorakshan Road, Malkapur, Akola,
Tq. & Dist. Akola.
3. McNally Baharat Engineering Company
Ltd., having office at Ecospace Business Park,
Campus 2B, 11F/12, Rajarhat, New Town,
Kolkata 70016.

...RESPONDENTS.

Mr. M.G. Sarda, Advocate for petitioner.
Mr. C.B. Dharmadhikari, Advocate for respondent Nos. 1(a) and 1(b)
Mr. Gandhi, Advocate h/f Mr. N.R. Tekade, Advocate for respondent
No.2.

**CORAM : VINAY JOSHI AND
SMT. M. S. JAWALKAR, JJ.**

DATE : JULY 01, 2024.

ORAL JUDGMENT (PER VINAY JOSHI, J.) :

1. **Rule.** Rule made returnable forthwith. Heard finally with the consent of learned counsel appearing for the parties.

2. The son of the petitioner namely Dhanraj was a contractual employee with the respondent Company. He was detected to be Covid-19 positive on examination by the Government Medical College Lab, Akola. Later on, he died at his residence on 18.05.2021. He was earning member of the family who succumbed to the Covid-19 Pandemic. Different policies are framed to alleviate the plight of affected families due to Covid deaths. The respondent Company has framed policy dated 22.06.2020 to pay sum of Rs. 30,00,000/- as ex-gratia payment to the unfortunate family who

lost a family member in Covid-19.

3. The petitioner has applied to the respondent Company for grant of ex-gratia payment in terms of policy. The respondent Company has rejected the petitioner's urge for the reason that the petitioner has not complied the policy conditions namely he did not produce a death certificate showing cause of death as due to Covid-19.

4. The learned counsel appearing for petitioner would submit that the Supreme Court has considered the aspect of issuance of death certificate and grant of ex-gratia payment in case of **Gaurav Kumar Bansal Vs. Union of India & ors.** (Miscellaneous Application No. 1120 of 2021 in Write Petition (Civil) No. 539 of 2021, decided on 04.10.2021). In that light, it was decided that for the purpose of grant of ex-gratia payment by State, if the death occurs within 30 days from the date of testing as Covid-19 case, then it shall be treated as death "due to Covid-19", even the death takes place outside the hospital. He has also pointed out a Government Circular dated 26.11.2021 which was issued in pursuant of the Supreme

Court decision reiterating the position as regards to the ex-gratia payment to the unfortunate family by the State. On the said line, the petitioner would submit that though death certificate did not disclose the Covid-19 death, however his son was tested Covid-19 positive and death occurred within one month, the respondents are liable to grant ex-gratia compensation of Rs. 30,00,000/- as per the policy. He would submit that after decision of the Supreme Court, he has again made a representation, however it was not decided. The petitioner has produced a copy of internal communication dated 23.12.2021, wherein, the Authority conveyed that the petitioner's proposal can be considered, however till date the respondents have not taken a decision on petitioner's representations dated 29.11.2021 and 15.05.2023. The respondents ought to have sympathetically considered the petitioner's proposal in the light of the Supreme Court decision.

5. In view of above, the respondents are directed to decide the petitioner's representations dated 29.11.2021 and 15.05.2023 within six weeks from today.

6. Petition stands disposed of in above terms.
7. All points are kept open.

(SMT. M. S. JAWALKAR, J)

(VINAY JOSHI, J.)

Gohane