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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 2136/2023**
PREM WATI AND OTHERSPetitioners

Through: Mr. Raj Kumar Yadav and Mr.
Praveen Kumar, Advocates.

versus

GNCTD AND OTHERS & ORS.Respondents
Through: Ms. Harshita Nathrani, Advocate for
R-1 & 2.
Mr. S.U, Abbas and Mr. Abhishek
Yadav, Advocates for R-3 with Mr.
Gaurav Kumar, Astt. Engineer.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER
14.11.2024

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1. The Petitioners have preferred the instant writ petition seeking quashing of the order dated 11th February, 2021 passed by Respondent No. 2 – SDM (HQ) Revenue Department, GNCTD, declining their request for grant of *ex-gratia* compensation of INR 1 Crore as per the Cabinet Decision No. 2835 dated 13th May, 2020.

2. The Petitioners are the legal heirs of Late Mr. Akhilesh Chandra, who was working as a shift incharge/electrician with the Delhi Jal Board, GNCTD during the COVID-19 pandemic. They lay out the following facts for grant of the *ex-gratia* compensation:

2.1 During the 1st wave of the COVID-19 pandemic, Late Mr. Akhilesh Chandra was deployed by the Delhi Jal Board as a shift in-charge and water



pump operator at the Okhla Sewage Treatment Plant. On 9th May, 2020, while discharging his duties, he began experiencing symptoms indicating COVID-19 infection. He was immediately taken to Holy Family Hospital, Delhi, for medical evaluation, where he tested positive for COVID-19. Following this diagnosis, the hospital recommended his urgent transfer to Ram Manohar Lohia Hospital, where he was admitted for treatment.

2.2 Unfortunately, Late Mr. Akhilesh Chandra succumbed to the COVID-19 infection by the evening of 09th May, 2020. In this regard, the Petitioners rely on the Death Summary dated 09th May 2020 prepared by PGIMER-Dr. Ram Manohar Lohia Hospital which records that Mr. Chandra died due to COVID-19.

2.3 The GNCTD announced Cabinet Decision No. 2835 dated 13th May 2020, declaring if any individual, including doctors, nurses, paramedical staff, etc., who is deployed for COVID-19 duties, expires by contracting the COVID-19 disease during discharge of their duty, the family members of such employees shall be granted an *ex-gratia* compensation amount of INR 1 Crore.

2.4 In light of the above, the Petitioners applied for grant of the said compensation in terms of the aforementioned cabinet decision. However, *vide* communication dated 11th February 2021, Respondent No. 2 rejected the Petitioners' claim, observing that the deceased's case was not covered by the Cabinet Decision since he was not deployed for COVID-19 related duty. Aggrieved by the said communication, the Petitioners have preferred the present petition invoking this Court's extraordinary jurisdiction under Article 226 of the Constitution.

3. On 20th February 2023, this Court issued notice in the present matter



and directed Respondent No. 1 to file their counter affidavit.

4. On 18th July, 2023, the Court observed that the matter required consideration, and the same was directed to be placed before a Group of Ministers¹ for taking a decision on such pending cases of *ex-gratia* compensation of INR 1 Crore to the families of employees who expired during COVID-19 duties, including the present case. Thereafter, the matter was adjourned on a few occasions to enable the GoM to take its decision.

5. On 4th September 2023, Mr. Satyakam, ASC for the Respondents, apprised the Court that the GoM meeting was scheduled for 13th September 2023. Thereafter, through the decision taken in the Meeting held on 25th September, 2023, GoM rendered its decision, rejecting the Petitioner's claim for *ex-gratia* compensation on the grounds that the case did not fall within the ambit of the Cabinet Decision No. 2835 dated 13th May, 2020. The relevant extract of the GoM minutes of meeting is as follows:

07.	Name and designation of deceased	Sh. Akhilesh Chandra Shift Incharge	As per directions of the Hon'ble High Court, the case of Late Sh. Akhilesh Chandra was placed before the Group of Ministers in the meeting.
	Department	Delhi Jal Board	
	Place of Duty	Okhla Sewage Treatment Plant, Delhi Jal Board	
	Order regarding assignment of COVID related duties	As per note of Administrative department, "Late Sh. Akhilesh Chandra was working as shift incharge in Okhla Plant and was performing his duty during Lockdown Covid-19 period. He was performing his general routine duty. However, his work was essential to operation of STP Okhla due to Covid-19 shift duty."	The GoM observed that the documents i.e. Report of Death Audit Committee issued by DGHS, mandated by the Cabinet Decision are not available in this case.

¹ "GoM"



Last duty performed	01.05.2020	The GoM noted that the officers/officials working in Govt. departments were performing their routine duty during Covid. Usual duty during Covid pandemic and Covid duty are two different thing. It was noted that Sh. Akhilesh Chandra was performing only his routine duty as Shift In-charge. It is in no way on a Covid duty or a duty related to Covid treatment, facilitation or care of Covid patients. The GoM concluded that the case is not related to Covid duty. Accordingly, the Group of Ministers was of the considered view that the case is NOT covered under the provisions of Cabinet Decision No. 2835 dated 13.05.2020.
Date of covid positive	11.05.2020 (sample taken on 09.05.2020)	
Date of Death	09.05.2020	
Certification by the death audit committee	Late Sh. Akhilesh Chandra died due to COVID-19 on 09.05.2020 and the cause of death is certified by Death Audit Committee of Ram Manohar Lohia Hospital vide certificate dated 26.06.2020.	

6. Counsel for Petitioner submits that the decision of Respondents is arbitrary and unreasonable. He asserts that Late Shri Akhilesh Chandra was working with Delhi Jal Board as shift incharge/electrician under the Executive Engineer (SDW-II), Mathura Road, Okhla, New Delhi and lost his life on 09th May, 2020 while discharging his official duties as shift incharge/water pump operator. It is argued that Shri. Chandra was deployed by the Delhi Jal Board and performed his duties as directed, bringing his case squarely within the ambit of Cabinet Decision No. 2835 dated 13th May, 2020. Furthermore, the counsel places reliance on the decision rendered by this Court in the case of **Pooja v. State of GNCT Of Delhi & Ors.** in W.P.(C) 5923/2021, to emphasise that the Respondents have extended compensation in similar cases. He alleges that the Petitioners' claim has been unfairly excluded, amounting to discriminatory treatment, and argues that the yardstick applied to other cases must also apply to the Petitioners.

7. The Court has considered the aforementioned contentions but is not convinced. The decision rendered by the GoM *vide* the Minutes of Meeting dated 25th September, 2023 denying the grant of compensation, was passed



after deliberations on the applicability of the Cabinet Decision No. 2835 dated 13th May, 2020, which categorically provides that the *ex-gratia* compensation was to be granted to the families of employees who were deployed for COVID-19 duties and who succumbed to the disease during discharge of these duties. As noted by the GoM, there is a distinction between COVID-19 duties and routine duties, as envisaged by the cabinet decision. COVID-19 duties are understood to be the specific COVID-19 related responsibilities involving treatment, facilitation, or care of COVID-19 patients. Thus, the rationale behind the cabinet decision was to recognize the extraordinary risks faced by such individuals engaged in such high-risk duties and to compensate families of employees who died to the disease as they were under high risk of contracting the infection due to exposure to COVID-19 patients.

8. The case of the Petitioners has been duly considered by the GoM and it was found that Late Mr. Akhilesh Chandra was found to be performing his routine duties as a shift incharge with the Delhi Jal Board and his duty was not considered to be part of the special COVID-19 related duties.

9. The Petitioners' reliance on the case of ***Pooja v. State of GNCT Of Delhi & Ors.*** to claim discriminatory treatment is misplaced. The facts of the said case are entirely on a different footing than the case of the Petitioners. In the case of *Pooja v. State of GNCTD* the deceased was a Delhi Police Constable who passed away while he was posted on duty at Deep Chand Bandhu Hospital to ensure adherence of the COVID-19 lockdown measures. Therefore, it was unequivocally established in that case that the deceased had contracted the infection while performing COVID-19 specific duty. In contrast, Late Shri Akhilesh Chandra was not assigned any



special COVID-19-related duties. Records indicate that he was engaged in his routine responsibilities as a shift in-charge and water pump operator at the time he contracted the infection. Thus, the cases are distinguishable on facts, and the comparison drawn by the Petitioners does not hold merit.

10. It is beyond doubt that Late Shri Akhilesh Chandra was engaged in duties vital to public welfare as a shift in-charge and water pump operator, ensuring the uninterrupted functioning of essential water supply systems during a time of national crisis. However, the Cabinet Decision No. 2835 dated 13th May, 2020, limits the grant of *ex-gratia* compensation to employees deployed on duties directly related to COVID-19, such as patient care, relief work, or containment zone operations. While the Court acknowledges the significance of the deceased's contributions, but the nature of his duties does not satisfy the strict eligibility criteria. The Cabinet Decision was formulated with an intent to recognize and compensate individuals who undertook extraordinary risks in combating the pandemic, exposing themselves to heightened danger. Expanding the scope of this policy to include all essential service providers would not only dilute its intent but also risk opening the floodgates for claims that fall outside the scope of the decision.

11. Thus, in light of the foregoing, the Court is of the considered view that the decision rendered by the Respondents does not warrant interference. It reflects a reasoned application of the policy framework and does not appear to suffer from arbitrariness or any legal infirmity. The Court, while deeply empathetic to the loss suffered by the Petitioners, finds no justification to intervene in the matter. Furthermore, *ex-gratia* payments are discretionary and not a matter of right. They are granted as a compassionate



gesture in extraordinary circumstances, subject to the specific terms and conditions outlined in the governing policy. The Court finds that the decision-making process followed by the GoM was neither arbitrary nor unreasonable.

12. In view of the above, the Court is not inclined to entertain the present writ petition and the same is dismissed, along with pending application(s), if any.

SANJEEV NARULA, J

NOVEMBER 14, 2024

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