



2024:DHC:6258-DB



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

% Judgment reserved on: 13.08.2024
Judgment delivered on: 21.08.2024

+ LPA 548/2019, CM APPL. 38379/2019

GURNAM SINGH Appellant

versus

UNION OF INDIA & ORS Respondents

Advocates who appeared in this case:

For the Appellant : Ms. Monica Kapoor, Advocate along with
appellant in person.

For the Respondents : Mr. Apoorv Kurup and Ms. Nidhi Mittal,
Advocates for R-1.
Mr. Santosh Kumar Tripathi, SC (Civil) with
Mr. Kartik Sharma and Mr. Rishabh
Srivastava, Advocates for R-2.

CORAM:

HON'BLE THE ACTING CHIEF JUSTICE

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

J U D G M E N T

TUSHAR RAO GEDELA, J.

1. Present appeal has been preferred under Clause X of the Letters Patent Act, 1866, assailing the judgment dated 30th May, 2019, passed by the learned Single Judge of this Court dismissing the underlying W.P.(C) 4755/2017 titled "*Gurnam Singh vs. Union of India & Ors*" filed by the appellant, on the ground that the appellant is not entitled to interest on *ex-gratia* compensation of Rs. 1,00,000/- awarded to the appellant.



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2. The facts shorn of unnecessary details and culled out from the appeal are as under:-

- a) The appellant is a victim of Anti-Sikh Riots that had occurred on 31st October, 1984, in the wake of the assassination of the then Prime Minister of India, Smt. Indira Gandhi. The appellant claims to be living with his family in 1646, DDA Janta Flats, Nand Nagri, Shahdara, Delhi-110093, and the said residence of the appellant was ransacked and looted in said riots on 1st/2nd November, 1984.
- b) *Vide* the notification dated 6th November, 1984, the Government of India issued a notification granting compensation to the victims of Anti-Sikh Riots, 1984. The next of kin of each person who had died were to be provided immediate compensation of Rs.10,000/- and every injured person was to be paid a sum of Rs.2,000/-. In addition, the compensation in case of total destruction of a house, was fixed at Rs.10,000/-. In case of substantial damage to a house, the compensation was fixed at Rs.5,000/-.
- c) It is stated that the father of the appellant filed an FIR bearing No. 504/1984 registered u/s 147/148/149/427/436/201/302 IPC, 1860, on 9th November, 1984, at Police Station Seemapuri, Shahdara, Delhi, complaining that the appellant's family had suffered a loss of Rs.60,800/- due to looting by the mob. Accordingly, the appellant filed an application dated 12th December, 1987, with the office of the Lieutenant Governor seeking payment



of *ex gratia* compensation. The appellant kept on pursuing claim from one office to another but no compensation was awarded. In the meanwhile, the Government of India, *vide* notification dated 18th June, 1990, enhanced the amount of compensation payable to Anti-Sikh Riot Victims and it was further enhanced *vide* another notification dated 16th January, 2006.

- d) The appellant filed a writ petition being W.P.(C) 2062/2007 before this Court praying that compensation to the tune of Rs.6,08,000/- along with interest be awarded to him. The said petition was disposed of on 12th August, 2009, with a direction to respondent no.2/GNCTD, to set up a Screening Committee for considering the appellant's claim.
- e) That *vide* order dated 30th January, 2010, the appellant's claim was rejected by the Screening Committee on the ground that the name of the appellant does not figure in the list of those who had been paid initial compensation in respect of Anti-Sikh Riots, thus he was not entitled to *ex gratia* compensation on account of damage to residential property/household goods.
- f) Consequently, appellant filed another writ petition being W.P.(C) 3611/2011 challenging the rejection of its claim. The said writ petition was disposed of by this Court *vide* order dated 30th August, 2013, thereby directing the respondents to re-examine the case of the appellant. It was also made clear therein that the Screening Committee shall



pass a speaking order and clarified that non-payment of the initial compensation would not be held against the appellant.

- g) Thereafter, the Sub-Divisional Magistrate, Seemapuri, Shahdara, rejected the claim of the appellant *vide* order dated 29th January, 2014, on the ground that no fresh claim could be entertained. The appellant being aggrieved by the aforementioned order dated 29th January, 2014, preferred another writ petition being W.P.(C) 2252/2014 before this Court. The said writ petition was disposed of *vide* order dated 4th April, 2014, with a same direction to the Screening Committee to pass a speaking order in accordance with the order dated 30th August, 2013, passed in W.P.(C) 3611/2011.
- h) It is the case of the appellant that the Screening Committee, after examining the claims of the appellant, submitted a report dated 7th November, 2015, recommending that a compensation of Rs.1,00,000/- be paid to the appellant. The said compensation was finally paid to the appellant on 8th April, 2016.
- i) Subsequently, the appellant then filed the underlying writ petition being W.P.(C) 4755/2017, seeking direction to the respondents to either pay present market value of the goods lost or in alternative, pay interest @ 12% per annum on the amount awarded to the appellant.
- j) It is stated that the said petition was disposed of by the learned Single Judge *vide* order dated 30th May, 2019, on the sole ground that the appellant is not entitled to interest on *ex*



gratia compensation of Rs.1,00,000/- awarded to the appellant. Hence, the present appeal.

3. Ms. Monica Kapoor, learned counsel appearing for the appellant fairly submitted that so far as the prayer regarding payment of market value for the goods that were lost or destroyed in the riots in the year 1984 is concerned, the appellant would not press for the same.

4. She submitted that so far as the interest on delayed payment of *ex gratia* payment for the loss suffered is concerned, the appellant urges this Court to consider grant of the same at 12% per annum. She contended that the government itself came up with the *ex gratia* payment scheme to assuage the financial losses suffered by the riots' victims in the month of November, 1984 itself. She submitted that despite the father of the appellant having registered an FIR and the same being acknowledged by the Delhi Police, no *ex gratia* compensation was ever paid. She contended that the appellant had also submitted an application for compensation on 21st December, 1987 yet, no payment was ever released to the appellant. The compensation was even enhanced by the government *vide* the letter dated 18th June, 1990. However, no payment has yet been paid to the appellant. She submitted that the government further enhanced the *ex gratia* compensation by ten times *vide* letter dated 16th January, 2006, yet again, no compensation was released to the appellant.

5. Ms. Monica Kapoor submitted that the appellant was constrained to file three (3) writ petitions before this Court in the interregnum to seek substantial justice, yet every time, on some pretext or the other, the appellant's application was rejected. She submitted that it was only after



the third order dated 4th April, 2014, that the Screening Committee recommended the case of the appellant for *ex gratia* compensation of Rs.1,00,000/- on 7th November, 2015. The appellant received a cheque for a sum of Rs.1,00,000/- on 8th April, 2016.

6. Learned counsel submitted that the appellant filed a writ petition being W.P.(C) 2062/2007 after the Rehabilitation Policy dated 16th January, 2006 was introduced, *inter alia*, praying to grant a sum of Rs. 6,08,000/- being ten times the sum he originally sought i.e., Rs.60,800/-. She fairly submitted that she never agitated this prayer after that.

7. She submitted that keeping in view the above admitted delay in payment of *ex gratia* compensation, that too, attributable to the respondents, the appellant would be entitled to a reasonable interest @12% per annum on Rs. 10,000/- from 21st December, 1987 (date on which the appellant applied for compensation) till 8th April, 2016 and interest @12% per annum on the enhanced amount of Rs. 90,000/- from 16th January, 2006 (date of scheme of enhanced compensation) till 8th April, 2016 (date of receipt of cheque of Rs. 1,00,000/- by the appellant).

8. Learned counsel strenuously argued that the learned Single Judge overlooked these admitted facts and simply denied interest on the basis that *ex gratia* compensation does not attract interest component and that no such stipulation was there in any of the letters/orders sanctioning *ex gratia* payment. She vehemently contended that it is settled law that interest is accruable on delayed payments even when the same is attributable to the government. She, thus contended that the appellant be granted interest @ 12 % per annum, on the delayed payment of *ex gratia*



compensation. She relied upon the judgement of the learned Single Judge of this Court in *S. Nirmal Singh vs. Government of NCT of Delhi and Ors, W.P. (C) 2140/2003* decided on 9th February, 2004.

9. *Per contra*, Mr. Apoorv Kurup, learned counsel for respondent no.1/Union of India, supported the rationale in the impugned judgement. He contended that where the policy or orders of the government are silent about grant of interest on delayed payment, that too, of *ex gratia* compensation, the Courts under Article 226 of the Constitution of India, would be loathe in granting interest by issuing a writ of mandamus. He contended that it is not the case of the appellant that interest on delayed compensation was a term of the letters or orders sanctioning award of *ex gratia* compensation. In such case, according to learned counsel, no orders granting interest can at all be passed. He also contended that there was no deliberate delay on the part of the respondent no.1/Union of India, in awarding the compensation of Rs.1,00,000/- to the appellant and as such, no interest is even otherwise payable. He prays that the present appeal be dismissed.

10. We have heard Ms. Monica Kapoor, learned counsel for the appellant and Mr. Apoorv Kurup, learned counsel for the respondent no.1/Union of India, perused the records including the impugned judgement.

11. Apparently, the appellant is undoubtedly a victim of the large scale riots which affected Delhi in the aftermath of the assassination of the then Prime Minister of India, late Smt. Indira Gandhi. Many citizens of Delhi lost their precious lives to the mindless killing spree and many of them suffered loss and destruction of homes, transport vehicles, loot



and physical injuries. It is not doubted that the government had, in an attempt to assuage the hurt and injury suffered by citizens of Delhi, framed a policy whereby the victims were to be granted *ex gratia* compensation on certain basis. The first of such policies was sanctioned on 6th November, 1984, which was enhanced on 18th June, 1990 and then, to ten times the assessed loss, on 16th January, 2006.

12. It is also undoubted that the appellant's father had registered an FIR No.504/1984 under sections 147/148/149/436/201 and 302 IPC, 1860, as it then was. This was endorsed and sent up alongwith the statement of loss submitted by the father of the appellant to the concerned authority. The same did not elicit any response from the respondents. Subsequently, on 21st December, 1987, the appellant submitted with the Lieutenant Governor, a statement of loss suffered by his family and assessed the same to the extent of Rs.60,800/-. This too, did not elicit any response either from the respondents or the office of the Lieutenant Governor. In the meanwhile, the respondent no.1/Union of India, issued a letter/policy whereby the *ex gratia* compensation to the extent of ten times was announced *vide* letter dated 16th January, 2006. The appellant still was not granted any compensation. It was only after this failure on the part of the respondents that the petitioner was constrained to file four (4) writ petitions, one in the year 2007, then in the year 2011, then in the 2014 and finally, the underlying petition in the year 2017. Despite the fact that the respondents did not dispute that the appellant and his family had indeed suffered during the 1984 Riots, the appellant had to wait till the year 2016, to get the *ex gratia* compensation from the respondents. That too, after four rounds of



litigations, spending valuable and precious time of his life and expending hard earned money. It is difficult, if not entirely impossible, to ignore the pain and suffering the appellant may have undergone in the past four (4) decades.

13. No doubt that the policy or the letter sanctioning *ex gratia* compensation did not include any component of interest on delayed payment of such compensation, yet, the Courts, that too Constitutional Courts are empowered in exercise of powers under Article 226 of the Constitution of India to grant, in suitable and deserving cases, reasonable interest on delayed payment of *ex gratia* compensation. The fact that the Screening Committee had indeed, *vide* its letter dated 7th November, 2015, found the appellant entitled to *ex gratia* compensation and accordingly, recommended payment of Rs.1,00,000/-, being ten times the amount of Rs.10,000/-, it is evident that the appellant was undoubtedly a 1984 Riots' victim. To us, it is also simultaneously evident that the delay in payment of *ex gratia* compensation is attributable to the respondents, if not for the entire period, at least from 16th January, 2006, when the enhanced compensation to the extent of ten times the assessed sum was announced as a policy.

14. Having said that, it would be apposite now to examine the Rehabilitation Policy dated 16th January, 2006, issued by respondent no.1/ Union of India, which is reproduced in its entirety hereunder:-

“No.U.I3018/46/2005-Delhi-I(NC)
BHARAT SARKAR/GOVERNMENT OF INDIA
GRIHMANTRALAYA/MINISTRY OF HOME AFFAIRS

*North Block, New Delhi,
Dated 16th January, 2006.*



To
Chief Secretary,
(Governments of Uttar Pradesh, Madhya Pradesh, Chattisgarh,
Haryana, Bihar, Jharkhand, J&K, Himachal Pradesh, Orissa,
Maharashtra, Uttarakhand, Punjab and NCT of Delhi)

Subject: Sanction of “rehabilitation package” to provide relief to the victims of 1984 riots.

Sir/Madam,

I am directed to say that in pursuance of the assurances given by the Prime Minister and the Home Minister during discussion on the Report of Justice Nanavati Commission of Inquiry into 1984 riots in the Lok Sabha and the Rajya Sabha, the matter has been considered by the Government and it has been decided to sanction ex-gratia amount and other assistance to the victims of 1984 riots as mentioned below:

- (i) *Ex-gratia amount @ Rs. 3.5 lakh would be paid in each case of death during the riots. This will be in addition to the amount already paid by the respective State Governments;*
- (ii) *Ex-gratia amount in case of injuries will be paid @ Rs.1.25 lakh minus the amount already paid by the State Governments;*
- (iii) *All death cases which took place in trains during the 1984 riots would also be considered for payment of ex-gratia after due verification. The Government of Punjab, Ministry of Defence and Railways are to assist in verification of claims and identifying such cases;*
- (iv) *No new claims for grant of ex-gratia for death or injury would be entertained. Only those who received ex-gratia earlier should be eligible for the enhanced additional ex-gratia amount. However, if there are any pending or disputed cases which are awaiting decision for want of the necessary proof/evidence; such cases can be considered if they are finally accepted as genuine claims;*
- (v) *Ex-gratia for damaged residential properties would be paid @ 10 times the amount originally paid after deducting the amount already paid;*
- (vi) *Ex-gratia for damaged uninsured commercial/industrial properties would be paid @ 10 times the amount minus the amount already paid;*
- (vii) *Children/family members of those who died in the riots of 1984 will be Given preference in recruitment in para-military forces, IR Battalions, State Police Forces, Public Sector Undertaking and other State and Central Government Departments by giving necessary age relaxation;*



- (viii) *The Central Government/State Governments may launch a special recruitment drive to accommodate eligible members from riot affected families;*
- (ix) *Those who had lost their jobs in other States would be allowed to rejoin by treating the period of absence as 'dies-non';*
- (x) *Those who had to leave their jobs due to riots and have already crossed the age of superannuation may be given necessary pensionary benefits by relaxing the normal rules to the extent possible;*
- (xi) *The State Governments may grant pension to all the widows and old aged parents of those who were killed in the 1984 riots at the uniform rate of Rs. 2500/- per month for the whole life from a prospective date. Wives of those who have suffered disability of 70% or more and those who are missing since 1984 may also be provided pension at the same rate;*
- (xii) *Approximately 22,000 families of victim of the riots, which migrated to Punjab from other riot affected States, and are still living there, would be paid Rehabilitation Grant @ Rs. 2 lakh per family. Similarly placed families of victims of the riots living in other States may also be given Rehabilitation Grant at the rate of Rs. 2 lakh per family.*

2. It has further been decided that the entire expenditure on payment of ex-gratia in case of death and injury and ex-gratia for damaged residential properties and damaged uninsured commercial/industrial properties and rehabilitation grant as indicated at para 1(xii) above would be borne by the Central Government. The expenditure on payment of pension to the widows and old aged parents of those who were killed in 1984 riots, wives of those who have suffered disability of 70% or more and those who are missing since 1984 should be borne by the respective State Government.

3. The Governments of Uttar Pradesh, Madhya Pradesh, Chattisgarh, Haryana, Bihar, Jharkhand; J&K, Himachal Pradesh, Orissa, Maharashtra, Uttaranchal, Punjab and NCT of Delhi are requested to take immediate necessary steps to grant ex-gratia and other assistance to the victims of 1984 riots as per the following guidelines:

- (i) *The State Governments will, immediately on receipt of this letter, issue a notice for inviting claims from the riot victims for payment of ex-gratia in case of death/injury and compensation for damage to residential/commercial/industrial properties;*
- (ii) *Each State Government will publicize the particulars of officers authorised to receive claims from riot victims. They*



- will also nominate a senior officer as “Liason Officer” for this purpose. His/her particulars will be communicated to the Ministry of Home Affairs;
- (iii) All the claims will be duly verified/scrutinised by local administration/agency of State Governments;
 - (iv) Each State Government will constitute a Committee, which will consider the verified/scrutinised claims and give recommendation whether the claim should be accepted for payment or rejected.
 - (v) Based on the recommendation of the Committee, the State Governments will initially make disbursement of the amount from their own budget;
 - (vi) After making disbursement, the State Governments will calculate the total expenditure incurred on payment of ex-gratia/compensation and seek reimbursement from the Ministry of Home Affairs;
 - (vii) All payments to the riot victims will be made through “account payee cheques” only. In case a beneficiary does not have a bank account, the State Government will arrange a bank account to be opened in his/her name before the payment is made.
 - (viii) The State Governments would review the procedures prescribed for verification/scrutiny of claims to make it simple and less cumbersome to avoid delay and harassment to the riot victims;
 - (ix) In cases where the claims are supported by proof of having received the amount of compensation paid by the State Governments earlier, that may be considered as adequate and no additional proof may be required. It would be ensured that the claims are not rejected on technical/flimsy grounds.

4. In order to ensure that the claims are settled and assistance provided to the riot victims in a time bound manner, the State Governments are requested to take action as per the following time schedule:

- (i) **Issue of notice by the State Governments for inviting claims and receipt of claims from riot victims;** - **By 31.1.2006**
- (ii) **Constitution of a Committee by each State Government to scrutinize the verified claims and make recommendation for payment or otherwise;** - **By 31.1.2006**
- (iii) **Verification of claims by local administration/agency of State Governments, scrutiny of verified claims by the**



**Committees and submission of recommendation by the
Committee to State Government; - By 15.2.2006**

- (iv) **Disbursement of the amount by the State Government to the
riot victims; - By 31.3.2006**
- (v) **Submission of demand by State Governments to the Central
Government for reimbursement of the amount; - By
15.4.2006**
- (vi) **Reimbursement of amount to the State Government by the
Ministry of Home Affairs. - By 31.5.2006**

5. This issues with the approval of the Integrated Finance Division of the Ministry of Home Affairs vide their Dy. No. 3569/AS&FA(H) dated 10th January, 2006.

Yours faithfully,
sd/-
(I.B. Karn)
Director(Delhi)
Telefax: 23092670
E-mail: dirdelhi@nic.in

Copy forwarded for information and necessary action to:

- (i) All Ministries/Departments of the Government of India;
(ii) All States/ Union Territories;
(iii) All attached and subordinate offices, PSUs/Autonomous Bodies etc. of the Ministry of Home Affairs;
(iv) Commissioner of Delhi Police;
(v) Department of Personnel and Training with the request to give necessary age relaxation to various Ministries/Departments as and when approached by them for implementation of the decisions regarding employment;
(vi) Ministry of Finance (Department of Expenditure);
(vii) Joint Secretary, Police Division, MHA for necessary action on paragraphs (1) (vii) to (1) (x);
(viii) Integrated Finance Division; MHA;

sd/-
(I.B. Karn)
Director(Delhi)"

(emphasis supplied)



15. It is evident from a careful examination of the terms of para 4 that the disbursement under the Rehabilitation Policy, which also included enhancement to the extent of ten times the compensation assessed or paid earlier, was to be verified, assessed and disbursed in a time bound manner. In fact, on a closer scrutiny it is discernible that even the State Governments which were to make disbursals in certain instances were also to seek reimbursement of such expenditure from the Central Government by a stipulated date. Even more specific is the date stipulated for such reimbursement by the Central Government. This leads to the irresistible conclusion that the aforesaid policy of the year 2006 was to be implemented in a time bound manner. Though, there was no stipulation as to what would be the consequence of delay, yet, we are of the considered opinion, that such beneficial policies, that too for rehabilitation of the 1984 riot victims, cannot be rendered meaningless. As an example, in the instant case, the appellant and his family terribly suffered at the hands of the rioters exactly forty (40) years ago and the appellant again suffered at the hands of an insensitive and callous administration and had to approach the Constitutional Courts four (4) times for redressal of his grievances. Since the Rehabilitation Policy itself was to be effected and implemented in a time bound manner, failure to do so, cannot be treated lightly. We are thus, of the considered opinion that in this case, the *ex gratia* compensation of Rs.1,00,000/- which has been released to the appellant on 8th April 2016 shall attract interest from the date of issuance of the Rehabilitation Policy dated 16th January, 2006.



16. The aforesaid view finds support from the judgement of a Coordinate Bench of this Court in ***Union of India & Ors vs. Premwati, W.P (C) No.10087/2019*** passed on 31st October, 2022 (see **Neutral Citation No. 2022/DHC/004622**) whereby it was held that interest on delayed payment of *ex gratia* compensation was payable. In that case too, time for disbursement of *ex gratia* payment was stipulated in a Circular issued by the Railways. Though no consequence for such delay was stipulated, however, this Court agreed with the observations in the order of the Central Administrative Tribunal that interest was liable to be paid by the Railways. In similar circumstances, we find no reason to refuse imposition of a reasonable interest on the delayed payment of *ex gratia* payment to the appellant.

17. Resultantly, we hold that the appellant is entitled to interest at the rate of 10% per annum on the sum of Rs.1,00,000/- with effect from 16th January, 2006, through till 8th April, 2016 when the appellant was handed over such sum by way of a cheque. The respondent no.1/Union of India is therefore, directed to calculate the interest component on the aforesaid sum and pay the same to the appellant within a period of six (6) weeks.

18. In view of the above, the appeal along with pending applications is disposed of with a cost of Rs.25,000/- to be paid by respondent no.1/Union of India to the appellant within six (6) weeks.

TUSHAR RAO GEDELA, J

ACTING CHIEF JUSTICE

AUGUST 21, 2024/rl