



\$~12

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

+ **W.P.(C) 15278/2024**

GIRIJA DEVI

.....Petitioner

Through: Mr. Raja Choudhary, Mr. Kumar
Sourav, Mr. Sanyam Jain and Mr.
Japdeep Singh Chahal, Advocates.

versus

**THE STATE OF GNCT OF DELHI, THROUGH THE CHIEF
SECRETARY, & ORS.**

.....Respondents

Through: Mr. Rishikesh Kumar, ASC with Ms.
Sheenu Priya, Mr. Atik Gill and Mr.
Vikas Saini, Advocates for GNCTD.
Mr. Manu Chaturvedi SC for MCD.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

28.11.2024

%

1. Through the instant writ petition, the Petitioner seeks directions to the Respondents to release *ex-gratia* compensation amounting to INR 1 Crore, under the Cabinet Decision No. 2835 dated 13th May, 2020. The claim arises from the demise of her husband – Mr. Shivnath Prasad who was working as a teacher at MCD Primary Boys School, Nithari No. 2/II during the COVID-19 pandemic. The background of the case is as follows:

1.1. Late Mr. Shivanth Prasad was employed as a teacher at MCD Primary Boys School, Nithari No. 2/II. The Petitioner asserts that her husband was tested with COVID-19 on 24th April, 2021 while discharging his duties and subsequently succumbed to this infection on 28th April, 2021.



1.2. In this background, on 8th September 2021, the Education Department of the Municipal Corporation of Delhi, informed the Petitioner about the approval of *ex-gratia* assistance of INR 1 crore and requested the Petitioner to provide documents, including the death report, deployment order for COVID-19 duty, cancelled cheque, and other relevant documents. The translated copy of the said communication reads as follows:

1.3. Subsequently, the MCD, education department, issued a communication dated 17th September, 2021 informing the Petitioner that there was an error in the earlier communication and the amount of *ex-gratia* had not been sanctioned. The translated copy of the said communication reads as follows:



Delhi Municipal Corporation
Education Department, Rohini Area

No. D.No. 1133.RK/2021

Date: 17.09.2021

Corrigendum

Information given in the earlier letter No. D/1154/DDE/R.Z/2021 dated 08.09.2021, vide letter No. E.1(58)/Relief/Ex-gratia/2021/4394-4395 dated 17.08.2021 of Relief Branch, Government of Delhi, has been approved to give you an assistance amount of Rs. 1 crore as grant."

The above information has been written incorrectly by the concerned clerk, while there are some objections in your file for which a letter was sent to you to clear them. This amount should not be considered approved yet.

Whatever necessary action is taken on this file, you will be informed. A copy of the letter of the Delhi government is attached.

Mrs. Girija Devi, wife
Of late Shri Shrivnath Prasad
H. No. D-79/1 Inder enclave-2
Kirari Suleman Nagar (Near Fakira Chowk)
Delhi- 110095

Deputy Director
Education
Rohini

2. Placing reliance on these discrepancies, the Petitioner has invoked the jurisdiction of this Court under Article 226 of the Constitution of India, 1950 seeking a mandamus to the Respondents to provide the *ex-gratia* assistance of INR 1 crore.

3. The Court has considered the aforementioned contentions. Respondent No.2 through communication dated 27th December, 2021 has categorically declined the Petitioner's request for *ex-gratia* compensation in the following terms:



GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF DELHI
REVENUE DEPARTMENT: RELIEF BRANCH
5, SHAM NATH MARG, DELHI - 110054

No. F.1(58)/Relief/Ex-gratia/2021/CD No.087660339/5563

Dated : 27/12/2021

To,

✓ The D.D.E., Rohini Zone
North Delhi Municipal Corporation
Education Department
Delhi-110085

DA hes
27/12

Sub: Grant of Ex-gratia of Rs 1 Crore to the family of Late Sh. Shiv Nath Prasad,
Principal, NDMC Primary School, Nithari No. 2, North DMC.

Sir/Madam,

With reference to the above cited case, I am directed to inform you that the above case has been examined and is not found covered under the cabinet decision no. 2835 dated 13.05.2020 as the deceased was performing his routine duty and was not deployed for COVID-19 duty which is a mandatory condition to become eligible for grant of ex-gratia of Rs. 1 Crore.

This issues with the approval of the competent authority.

Yours faithfully,

SDM-II(HQ)

4. The communication dated 8th September, 2021 issued earlier, created some confusion. However, in the opinion of the Court, just because Respondent No.3 had in the communication dated 8th September, 2021 called upon the Petitioner to submit the necessary documents for processing the *ex-gratia* compensation, it cannot be said that a firm decision had been taken to allow the Petitioner's request. The Petitioner must establish their entitlement under Cabinet Decision No. 2835 dated 13th May, 2020.

5. On this issue, counsel for the Petitioner, argues that the Petitioner's husband was on COVID-19 duty when he contracted the disease, thereby



fulfilling the criteria for award of *ex-gratia* compensation. To that effect, he places reliance on a communication dated 13th April, 2021 which reads as follows:

NORTH DELHI MUNICIPAL CORPORATION
EDUCATION DEPARTMENT: HQ
DR. SPM CIVIC CENTRE
E-1 BLOCK, 15TH FLOOR, JLN MARG, NEW DELHI-02

NO.D /DDE/R&E.Edn/HQ/2021

DATED: 13.04.2021

In compliance of the office order vide no AO/CED/NDMC/2021/121 dated 13.04.21. I have been directed to inform that all DDE/ADEs of Education north DMC shall ensure that all the offices of Education Department shall function with officers of the level of Grade 1 / Equivalent and above to the extent of 100% strength. The remaining staff will attend up to 50 % in all cadres , the percentage of attendance on a day shall be 50 % of the total strength / cadre wise (remaining 50 % of the staff will work from home) till 30.04.21 or till further order , whichever is earlier .

All HQ/ZONAL DDE/ADES shall ensure strict compliance of this order and roster for the same is to be prepared in all branches of Education Department HQ/Zones/Schools. In the manner that the work is evenly distributed and no one is given undue advantage. Copy for the same is to be submitted to PS to Director for HQ and to concern DDE/ADE for zones.

Zonal DDE/ADEs/Sis shall monitor the same to ensure that these orders are implemented effectively.

Director of Education

Copy to AO (Estt.)

6. In the opinion of the Court, the aforementioned allocation of duties to the Petitioner's husband does not fulfil the criteria of the Cabinet Decision No. 2835 dated 13th May, 2020. This Court in *Subata Khan V Govt. of NCT of Delhi*¹ and *Prem Wati and Others V. GNCTD and others & Ors.*² has

¹ Decision dated 12th November, 2024 W.P.(C) 15681/2024

² Decision dated 14th November 2024 in WP(C) 2136/2023



already examined the object, scope and ambit of the said Cabinet Decision dated 13th May, 2020. The relevant portion of the decision in ***Prem Wati*** is reproduced herein below:

“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."

7. Thus, there is a distinction between COVID-19 duties and routine duties. COVID-19 duties are understood to be the specific COVID-19 related responsibilities involving treatment, facilitation, or care of COVID19 patients. The Petitioner's reliance on the communication dated 13th April, 2021 fails to demonstrate that the Petitioner was assigned to COVID-19 related duties such as those detailed above. Therefore, this Court sees no error in the decision dated 27th December, 2021, by which Respondent No. 2 concluded that the Petitioner's husband was carrying out his 'routine duties' and was not assigned to COVID-19 related duties, making the Petitioner ineligible for the *ex-gratia* award.

8. That apart, the Petitioner has also placed reliance on a letter dated 24th



April, 2023, issued by the principal of MCD Primary Boys school, to demonstrate that 'corona vaccination' was a part of her husband's duties and hence the same falls in category of COVID-19 duties. A translated copy of the said letter reads as follows:

Ward No.40 ID- 135542
School No. 266

MCD Primary School
Nithari No. 02 II, Delhi- 110086

Date 24.04.2023

To
The deputy Director (education)
Municipal corporation of Delhi, rohini zone delhi
Subject- for information about shivnath prasad (principal)

Sir
It is humbly stated that in the above said school Shivnath prasad as per records a/c to order D/179/de/Rze/edu/HQ/2021 was on working for the work of admission of students, for aadhar making , for opening bank account,for corona vaccination, to encourage parents , to provide offline work sheet to children etc. Worked in the school till 19.04.2021. On date 20.04.2021 i received information on mobile that he would be unable to come school from today. Would you handle the school. Thereafter his health started getting deteriorated . after some time got to know that he gets corona positive . On 28.04.2021 in Navjeevan hospital he passed away.

Whose information was given by that time school incharge gangotri prasad singh to department according to 12.10.21 . Whose copy is attached.

Principal
MCD primary boys school
Nithari no 2

However, this is simply an acknowledgment from the principal of the school where late Mr. Shivnath Prasad was employed, recognizing the work he carried out. There is no evidence on record to indicate that he was assigned such duties by or under the direction of the Government of NCT of Delhi, which is a necessary condition for granting the *ex-gratia* compensation.

9. In view of the above, the Court finds no merit in the present petition and the same is dismissed.

SANJEEV NARULA, J

NOVEMBER 28, 2024

nk