



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 13740 OF 2023

1. Dhanraj S/o Atmaram Dhok,
Age : 30 years, Occu. : Education
R/o. Halki, Tq :- Shirur Anantpal,
Dist. :- Latur

..PETITIONER

VERSUS

1. The State of Maharashtra,
Through the Secretary for Rural Development
Department, Mantralaya, Mumbai
2. The Divisional commissioner,
Aurangabad Division, Aurangabad,
Dist - Aurangabad.
3. The Chief Executive Officer,
Zillha Parishad Latur, Dist:-Latur

..RESPONDENTS

...
Advocate for petitioner : Shri B. R. Kedar
AGP for respondents No. 1 & 2 : Shri Amar V. Lavte
Advocate for respondent No. 3 : Shri Suhas B. Ghute
...

**CORAM : MANGESH S. PATIL &
PRAFULLA S. KHUBALKAR, JJ.**

DATE : 07 JANUARY 2025

ORDER (MANGESH S. PATIL, J.) :

Heard. Rule. It is made returnable forthwith. Learned AGP waives service for respondents no. 1 and 2. Learned advocate Mr. Ghute waives service for respondent no. 3. At the joint request of the parties, the matter is heard finally at the stage of admission.

2. The petitioner is challenging the order / communication of respondent no. 1 dated 18-09-2023 refusing *ex gratia* compensation of

Rs.10,00,000/- (Rs. Ten Lakh) pursuant to the government resolution dated 29-09-2018 on the ground that by virtue of subsequent government resolution dated 31-03-2023, the claim for grant of such *ex gratia* payment under the government resolution dated 29-09-2018 has been closed down.

3. Learned advocate Mr. Kedar submits that the impugned communication takes away the right of the petitioner to claim benefit under the government resolution dated 29-09-2018. Even though by the government resolution dated 31-03-2023, the state government has decided to close down the scheme of making payment, it could have been done only prospectively. It would be like changing the service regulations to the detriment of an employee retrospectively. The right to receive *ex gratia* compensation accrued to the petitioner on the date his father died i.e. on 07-10-2019. For whatever reasons, he was not granted the payment and in the meantime, his claim is being denied on the basis of change in the policy. Any such change could have been only prospective.

4. Learned AGP, referring to the affidavit in reply, would submit that since the scheme under which the petitioner has been claiming payment, has been stopped, since it is a matter of policy and since the government resolution dated 31-03-2023 provides for more benefit than merely *ex gratia* payment of Rs.10,00,000/-, there is no

arbitrariness and no fault can be found in the impugned communication, refusing *ex gratia* payment under the government resolution dated 29-09-2018.

5. The rival submissions now fall for our consideration.

6. There is no dispute on facts. The petitioner's father had joined in the employment on 01-07-2013. He died on 07-10-2019. He had died within 10 years from the date he was appointed and by virtue of the government resolution dated 29-09-2018, the petitioner apparently would be entitled to claim the *ex gratia* compensation.

7. The issue seems to have cropped up in view of the changed policy declared by the government resolution dated 31-03-2023, whereby, in clause no. 2, the scheme under government resolution dated 29-09-2018 was decided to be closed down.

8. Admittedly, respondent no. 3 had prepared a list of all such claims pending with it. The payments were released only up to the individual at serial no. 113 in accordance with the 2018 government resolution. The petitioner's name appears at serial no. 151. By virtue of clause no. 2 of government resolution dated 31-03-2023, all the claims from serial no. 114 onwards would not be eligible for consideration.

9. Once it is evident that the right to claim *ex gratia* sum under the policy declared by the government resolution dated 29-09-2018 had accrued to the petitioner no sooner his father died on 07-10-2019, any subsequent change in the policy would be contrary to the service jurisprudence. It is trite that conditions of service cannot be altered to the prejudice of an employee after he enters the employment. It can, therefore, be said with equal vehemence that since the right to receive *ex gratia* compensation had accrued to the petitioner on 07-10-2019 under the government resolution dated 29-09-2018, the subsequent government resolution dated 31-03-2023 by virtue of clause no. 2, depriving him of such right vested in him, is arbitrary and is not legally sustainable.

10. In the light of above, the writ petition is allowed.

11. The impugned communication is quashed and set aside.

12. Respondents no. 1 and 2 are directed to consider the petitioner's application strictly in accordance with the government resolution dated 29-09-2018 and it shall not be rejected by referring to the government resolution dated 31-03-2023.

13. The decision shall be taken as expeditiously as possible and in any case, within six (6) weeks and if he is found entitled to have

the *ex gratia* compensation, it shall be disbursed within 12 weeks from today.

14. Rule is made absolute in the above terms.

[PRAFULLA S. KHUBALKAR]
JUDGE

[MANGESH S. PATIL]
JUDGE

arp/