



2025:DHC:192-DB



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

% Judgment reserved on: 11.12.2024
Judgment delivered on: 16.01.2025

+ LPA 129/2024, CM APPL. 9467/2024

UNION OF INDIA & ANR

....Appellants

versus

SANGEETA WAHI & ORS

....Respondents

Advocates who appeared in this case:

For the Petitioner : Mr. Jaswinder Singh, Adv.

For the Respondent : Ms. Anu Mehta, Advocates for R1.
Ms. Hetu Arora Sethi, ASC, GNCTD
Mr. J.P.N. Shahi, Advocate for R-4.

CORAM:

HON'BLE THE ACTING CHIEF JUSTICE

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

J U D G M E N T

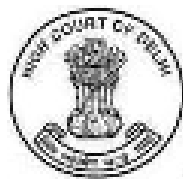
TUSHAR RAO GEDELA, J.

1. Present appeal has been preferred under Clause X of the Letters Patent Act, 1866 assailing the judgement dated 18.10.2023 passed by the learned Single Judge thereby allowing the underlying writ petition bearing W.P.(C) 4912/2021 titled '*Sangeeta Wahi vs. Union of India & Ors*', in favor of the respondent no.1 herein.

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2. The facts, shorn of unnecessary details and germane to the issue at hand and collated from the underlying writ petition and the present appeal, are as follows:-

- a) The appellant through its Secretary, Department of Health and Family Welfare, Ministry of Health and Family Welfare, Government of India announced '*Pradhan Mantri Garib Kalyan Package: Insurance Scheme for Health Workers fighting COVID-19*' (hereinafter *the Scheme*) on 30.03.2020.
- b) The respondent herein is a widow of a Security Guard deployed in Safdarjung Hospital during Covid-19 pandemic. The appellant no.2/Hospital, issued a permit card to the husband who was deployed by the government to perform essential services during pandemic curfew. The respondent no.1 claims that on 03.06.2020 while on duty at the Main reception of the Out Patient Department (herinafter *OPD*) at Safdarjung Hospital, her deceased husband fell ill. The respondent no.1 claims that even after reporting about having high fever and cough, the appellant no.2/hospital omitted and failed to attend to the deceased as he fainted on duty, was running high fever but instead sent him home in that condition and instructed him to take rest and stay away for a few days. But on 14.06.2020, he was declared brought dead. On 14/15.06.2020, appellant no.2/hospital conducted the Covid test on late husband of respondent no.1's body which tested positive for Covid-19.
- c) The respondent no.1 had approached the appellant claiming the

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benefit of the Scheme. She also claims the benefits of the Scheme announced by the Department of Health and Family Welfare, Government of NCT *vide* its notification dated 07.04.2020 for grant of *ex-gratia* compensation of Rs. 1 crore to the families of the employees who died of Covid-19 while on Covid-19 duty.

- d) The claim of the respondent no.1 under the Scheme was rejected by the appellant no.2/hospital *vide* its letter dated 07.12.2020. Aggrieved by the same, the respondent no.1 filed the underlying writ petition claiming the reliefs under the Scheme apart from the other reliefs.
- e) During the course of the proceedings before the writ court, pursuant to the order dated 20.04.2022, the appellants' duly reconsidered the case of the respondent no.1 and after applying the parameters of the Scheme had come to the conclusion that the case of the respondent no.1 could not be covered in this case *vide* the minutes of meeting dated 01.09.2022 and 05.09.2022.
- f) The learned Single Judge *vide* impugned order dated 18.10.2023 directed the appellants to release a sum of Rs.50 lakhs in favour of the respondent no.1 as well as directed them to send requisite documents to the Government of NCT of Delhi.
- g) Hence the appellants filed the present appeal.

CONTENTIONS OF THE APPELLANT:-

3. Mr. Jaswinder Singh, the learned counsel for the appellants submits that the respondent no.1 has no case, which would qualify under the Scheme as announced by the Central Government. Referring to the letter

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dated 30.03.2020, the learned counsel submits that it is clear that the Scheme was to apply to certain categories of Health Workers “*who may have to be in direct contact and care of Covid -19 patients*”. According to him, admittedly, the deceased husband of the respondent no.1 was deployed as a Security Guard with the Main Reception of the OPD ward at the appellant no.2/hospital and not with the critical care department of the Covid-19 patients or even the area where such patients were being tested. Mr. Singh vehemently contended that the deceased husband of the respondent no.1 would thus not qualify for any entitlement under the Scheme.

4. In support of the aforesaid contentions, the learned counsel also referred to the Order of the Ministry of Health and Family Welfare dated 28.03.2020 to submit that clause (i) thereof clearly demonstrates the intent of the government while engrafting the Scheme. As per the learned counsel, the emphasis is on public healthcare providers and community health workers. Thus, according to him, the deceased husband of the respondent no.1 not falling within either of the categories was excluded from such benefits. He emphasised that from a plain reading of the letter dated 30.03.2020 regarding the Confirmation of Risk Coverage issued by New Insurance Policy of India, it is apparent that “*insured persons*” as defined therein does not cover the deceased husband of the respondent no.1.

5. While relying upon the FAQs issued by the Central Government, learned counsel invited attention to question no.3 to explain as to what categories of individuals would be covered under the Scheme. He reiterated

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that even the answers contained in FAQ also unerringly point out that only “*public healthcare providers including community health workers, who may have to be in direct contact and care of COVID-19 patients and who may be at risk of being impacted by this*” would be covered. According to him, not all the individuals working at appellant no.2/hospital would be automatically covered under the Scheme save and except those who strictly fall under the said category. He emphasised that had that been the intention of the Central Government, the language employed would have clearly indicated that the Scheme was to cover all and any staff employed or deployed at the hospital. He vehemently contended that Courts cannot read into such Scheme a definition not contained therein explicitly. Else, it would run counter to the Scheme itself. Since the language is clear and restrictive, the scope of the Scheme cannot be expanded to include categories which were not intended to be extended the benefits.

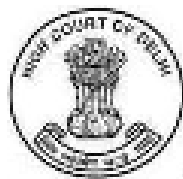
6. Mr. Singh drew attention to the minutes of the meetings dated 01.09.2022 and 05.09.2022 of the Special Committee constituted under the directions of the learned Single Judge *vide* the order dated 20.04.2022 during the pendency of the underlying writ petition. The learned counsel was at pains to demonstrate that a high powered committee comprising 6 senior doctors of the Vardhaman Mahavir Medical College & Safdarjang Hospital revisited the claim of the respondent no.1 and after detailed deliberations, came to the firm conclusion that the deceased husband of the respondent no.1 was not deployed for COVID-19 related responsibilities and was not in direct contact and care of such patients and hence not

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eligible to benefits under the Scheme.

7. The learned counsel also laid great stress on para 7 of the affidavit filed on behalf of the appellants on 06.03.2023 in the underlying writ petition. According to him, the case of the deceased husband of the respondent no.1 was not even reported by the Death Audit Committee (DAC) of the appellant no.2/Hospital alongwith the requisite documents. He contended that the appellant no.1 could not have processed the case of the respondent no.1 in the absence of the report of the DAC. Thus, the directions issued are unsustainable.

CONTENTIONS OF THE RESPONDENT NO.1:-

8. Ms. Anu Mehta, learned counsel appearing for the respondent no.1 (wife of late Dilip Kumar) and generally reiterates the findings and conclusions contained in the impugned judgement. Additionally, she invites attention to the Authorisation Letter dated 24.03.2020 issued by the Additional Medical Superintendent, VMMC & Safdarjung Hospital to contend that the late husband of respondent no.1 was part of the “*essential services*” on account of which such letter was issued to enable him to travel despite curfew in the city in the wake of COVID-19 pandemic.

9. The learned counsel also referred to the letter dated 07.07.2021 to submit that the Public Grievance Redressal Cell of the appellant no.2/hospital had sought clarification from the Ministry of Health and Family Welfare regarding the issue raised by the respondent no.1. The Ministry of Health responded by letter dated 23.09.2021 enumerating the conditions for the eligibility to such Scheme. According to her, the late

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husband of respondent no.1 would be eligible but for negligence on the part of the appellants. Dilating further, the learned counsel submits that the appellants failed to forward the claim of the respondent no.1 to the concerned authority alongwith all the requisite documents as per FAQ No.16 issued by the Central Government.

10. The learned counsel forcefully submits that the late husband of respondent no.1 indeed was deployed on duties in the Main Reception of the appellant no.2/hospital and COVID-19 virus being airborne, it cannot be assumed that he could not have contracted the virus while on duty. According to her, the late husband of respondent no.1 would fall within the definition of health worker even if he was not a medically trained person. She thus reiterates that no fault can be found with the impugned judgement and the appeal be dismissed.

ANALYSIS & CONCLUSIONS:-

11. Before rendering our opinion, it is felt necessary to extract paras 8 and 9 of the impugned judgement dated 18.10.2023 to examine how pithily learned Single Judge has captured the situation on the ground at the relevant time when COVID-19 was just spreading its tentacles. Para 8 and 9 read thus:

“8. Covid-19 Pandemic struck the country in March, 2020. Lakhs of persons lost their lives in the Pandemic. Police officials, healthcare workers, Doctors, Paramedics, etc. were braving the Pandemic and were in the line of duty to provide assistance to persons who fell victims to the life taking virus. Concerns had been raised regarding the country's healthcare system and its capacity to cope with the massive outbreak. Doctors, nurses, paramedical staff, including security staff in various hospitals, were working day and night to streamline the patients to ensure that the patients are screened at the earliest and are quarantined so that

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the virus does not spread. Persons who were affected by any fever were in a state of panic and not knowing what is to be done, they were rushing to hospitals not knowing where to go and whom to meet. People were crowding OPDs and the causality in the hospital to get themselves screened. At this juncture, it was these security guards, paramedical staff, who not only to ensured the safety of the hospitals but were also acting as guides by directing the patients to approach the correct centre. It, therefore, cannot be said that the security guards who were posted at various places were not in direct contact of Covid-19 patients. It is well known that Covid-19 virus spread through air and any patient who was coming to the hospital could have been infected by the virus, whether he/she was symptomatic or not. The patients got in touch with many service providers, be it security guards, nurses, paramedical staff, who might or might not have been posted in the Covid-19 ward. The Central Government, therefore, cannot take such a narrow approach that only such persons who were posted in the Covid-19 ward or centre only will be covered by the "Pradhan Mantri Garib Kalyan Package: Insurance scheme for health workers fighting COVID-19". The Scheme was actually brought out as a measure to benefit the family members of persons who became martyrs in the line of duty while protecting thousands of persons affected by Covid-19 Pandemic. Taking such a narrow view actually goes against the spirit of the Scheme which was meant to provide immediate relief to persons who were tackling the situation and were protecting the lives of thousands of patients. This Court can take judicial notice of the fact that any person having mildest of the symptoms of Covid-19 was getting himself/herself tested. Poor people who could not afford private testing centres were rushing to the Government hospitals. A normal person would never know that there is a special Covid-19 ward and his normal reaction would be to approach either the OPD desk or the casualty of the hospital to meet the Doctor. At that point of time, to streamline the queue, the services of the security guards were availed. The security guards were also directing the people to the Departments where the patients have to approach in order to get themselves treated. It, therefore, cannot be said that the late husband of the Petitioner herein, who died of Covid-19 which he may have contracted in the Hospital, was not in direct contact with the Covid-19 patients.

9. The Scheme has been brought out as a social welfare scheme and application of such schemes are not to be put in Procrustean beds or shrunk to Liliputian dimensions. Welfare Schemes must necessarily receive a broad interpretation. Where Scheme is designated to give relief, the Court should not be inclined to make etymological excursion [refer:

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Workmen v. American Express International Banking Corpn.,(1985) 4 SCC 71].”

To add to the above, this Court can take judicial notice of the fact that not just this country but the whole world was in panic and admittedly no cure was available. The powerful countries of the world as well as the global medical services were brought to their knees in a couple of months, if not days. No one knew how to take precautionary measures and people were falling like ninepins. Thus, this case has to be examined and appreciated in such a context.

12. That said, judicial notice can be taken of the fact that the Ministry of Home Affairs had, *vide* the notification dated 24.03.2020, declared the spread of novel Coronavirus as “COVID-19 pandemic” based on a similar declaration by the World Health Organisation (WHO). According to the Shorter Oxford English Dictionary, 6th Edition, Volume – 2, published in 2007 defines “pandemic” as “*spread or prevalent throughout a country, a continent or the world; of or pertaining to such a disease*”. Undisputedly, the COVID-19 pandemic had engulfed the whole world in horrendous proportions.

13. It was in the wake of a disaster of such proportions, and rightly so, that the Central Government had through its Ministry of Health and Family welfare rolled out the “*Pradhan Mantri Garib Kalyan Package: Insurance Scheme for Health Workers fighting COVID-19*” as a succour and a welfare measure to provide an insurance cover of Rs.50 lakh for ninety days to a total of around 22.12 lakh public healthcare providers, including community health workers, who may have to be in direct contact and care

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of COVID-19 patients and who may be at risk of being impacted by it, on 30.03.2020. Simultaneously, keeping in view the unprecedented situation, the Scheme was also offered for the benefit of private hospital staff/retired/volunteer/local urban bodies/contract/daily wage/ad-hoc/outsourced staff requisitioned by States/Central Hospitals/autonomous Hospitals of Central/States/UT's, AIIMS, and INIs/Hospitals of Central Ministries who may be drafted for COVID-19 related responsibilities. It would be apposite to refer to the letter dated 30.03.2020. The same reads as under:

*“Government of India
Department of Health and Family Welfare
Ministry of Health and Family Welfare
D.O.No.Z.21020/16/2020-PH
Dated: 30th March, 2020*

*“Preeti Sudan, IAS
Secretary*

Dear Colleague,

Subject: ‘Pradhan Mantri Garib Kalyan Package: Insurance Scheme for Health Workers Fighting COVID-19’ - reg.

*To give further momentum to India's effort to fight COVID-19 and to assure our doctors and healthcare workers that their well-being is foremost for the Government, Central Government: announced the Pradhan Mantri Garib Kalyan-Package: Insurance Scheme for Health Workers Fighting COVID-19' to provide an insurance cover of Rs.50 lakh for ninety (90) days to a total of around 22.12 lakh public healthcare providers, including community health workers, who may have to be in direct contact and care of COVID-19 patients and who may be at risk of being impacted by this. Also, on account of the unprecedented situation; private hospital staff/ retired/ volunteer/ local urban bodies/ contract/ daily wage/ ad-hoc/ outsourced staff requisitioned by States/ Central hospitals/autonomous hospitals of Central/States/UTs, AIMS &-INIs/ hospitals of Central Ministries can also be drafted for COVID-19 related responsibilities: **These cases will also be covered under the said insurance scheme. I am***

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enclosing a copy of this Ministry's Order dated 28.03.2020.

2. In this context, I am happy to inform you that the Scheme has come into effect from today i.e., March 30, 2020 and insurance cover, provided by New India Assurance Company Limited, will be available for 90 days

3. I request you to kindly give this wide publicity to instill a sense of security, appreciation and inclusion among all our healthcare providers and workers engaged in a tough battle against COVID-19.

Encl: as above

Yours sincerely,
Sd/-
(Preeti Sudan)"

[emphasis supplied]

14. On a query raised by the Public Grievance Cell of the appellant no.2/hospital, the Ministry of Health and Family Welfare clarified the eligibility conditions *vide* its communication dated 23.09.2021. It would be worthwhile to examine the same. The recitals thereof are extracted hereunder:

"F. No. Z-28015/07/2021-PMGKP
Govt. Of India
Department of Health and Family Welfare
(Ministry of Health and Family Welfare)
R. No. 522-A, Nirman Bhavan

New Delhi - 110011,
Dt. 23 Sep., 2021.

To
The Chairman,
Public Grievance Redressal Cell,
Room No. 518, 5th Floor, New OPD Building,
Safdarjung Hospital,
New Delhi - 110029.

Sub: Complaint No. PMOPG/E/2021/0190537 lodged by Smt. Sangeeta Wahi regarding COVID-19 Healthcare worker insurance claim for her husband who died on 14.06.2020 due to COVID-19 while working as guard in Safdarjung Hospital OPD. - reg

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Sir,

I am directed to refer to your letter No. 95/PGRC/2021-512, dt. 07.07.2021 on the subject cited above and to say that the eligibility for claiming benefit under the insurance scheme is determined based on certain criteria, which are as under :-

'Pradhan Mantri Garib Kalyan Package (PMGKP): Insurance Scheme for Health Care Workers Fighting COVID-19' was launched on 30.03.2020 to provide comprehensive personal accident cover of Rs. 50 Lakh to 22.12 lakh health care providers including community health workers and private health workers who may have been in direct contact and care of COVID-19 patients and may be at risk of being impacted by this.

Further, on account of the unprecedented situation, private hospital staff/retired/ volunteer/local urban bodies/contract/daily wage/ad-hoc/outsourced staff requisitioned by states/central hospitals/autonomous hospitals of central/states/UTs, AIIMS & Institute of National Importance (INI)s/hospitals of Central Ministries specifically drafted for care of COVID-19 patients are also covered under the Pradhan Mantri Garib Kalyan Package: Insurance Scheme for Health Workers Fighting COVID-19 subject to fulfillment of the following conditions:-

- (a) They should have been drafted by the States/ Central hospitals/ autonomous hospitals of Central/ States/ UTs, AIMS & INIs/ hospitals of Central Ministries for COVID-19 related responsibilities.*
- (b) They should have been working as front-line health workers, who may have to be in direct contact and care of COVID-19 patients and who may be at risk of being impacted by this.*
- (c) The loss of life is due to COVID-19 or death due to accident on account of COVID-19 related duty.*

2. The eligibility for claiming benefit under the scheme shall be dependent on satisfying the aforesaid criteria.

Yours faithfully,

Sd/-

(S. Nayak)

*Deputy Secretary to the Govt. of India
Ph.-23061288"*

We find that the above letter is a reiteration of the intent of the Central Government while rolling out the welfare Scheme. To our mind the clarification somewhat restricts the applicability of the Scheme to

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individuals who are “*Frontline health workers*” whereas, the Scheme dated 30.03.2020 does not draw out any such discernible distinction. In fact, the Scheme is made applicable to “*health care providers*” and extended to “*private hospital staff/retired/volunteer/local urban bodies/contract/daily wage/ad-hoc/outsourced staff requisitioned by States/Central Hospitals/autonomous Hospitals of Central/States/UT’s, AIIMS, and INIs/Hospitals of Central Ministries who may be drafted for COVID 19 related responsibilities*”. Thus reading plainly, it is made applicable to all the above category of persons and not just “*front line health workers*”. It is trite that beneficial legislations or enactments and policies or welfare Schemes have to be read to encompass the wide ambit of the public so as to further the aim and object of such a measure.

15. At this juncture it may be apposite to refer to the doctrine of “*purposive interpretation*” to harmoniously construct the real purpose and intent of the government in rolling out the aforesaid Scheme. *Locus classicus* on this, is the judgement of the Supreme Court in ***New India Assurance Company Ltd. vs. Nusli Neville Wadia & Anr.: (2008) 3 SCC 279***. The relevant paragraph is reproduced hereunder:

“**51.** Except in the first category of cases, as has been noticed by us hereinbefore, Sections 4 and 5 of the Act, in our opinion, may have to be construed differently in view of the decisions rendered by this Court. If the landlord being State within the meaning of Article 12 of the Constitution of India is required to prove fairness and reasonableness on its part in initiating a proceeding, it is for it to show how its prayer meets the constitutional requirements of Article 14 of the Constitution of India. For proper interpretation not only the basic principles of natural justice have to be borne in mind, but also principles of constitutionalism involved therein. With a view to read the provisions of the Act in a proper and effective manner, we are of the opinion that literal interpretation, if given,

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may give rise to an anomaly or absurdity which must be avoided. So as to enable a superior court to interpret a statute in a reasonable manner, the court must place itself in the chair of a reasonable legislator/author. So done, the rules of purposive construction have to be resorted to which would require the construction of the Act in such a manner so as to see that the object of the Act is fulfilled, which in turn would lead the beneficiary under the statutory scheme to fulfil its constitutional obligations as held by the Court inter alia in Ashoka Marketing Ltd. [(1990) 4 SCC 406]

52. Barak in his exhaustive work on “Purposive Construction” explains various meanings attributed to the term “purpose”. It would be in the fitness of discussion to refer to Purposive Construction in Barak’s words:

“Hart and Sachs also appear to treat ‘purpose’ as a subjective concept. I say ‘appear’ because, although Hart and Sachs claim that the interpreter should imagine himself or herself in the legislator’s shoes, they introduce two elements of objectivity: First, the interpreter should assume that the legislature is composed of reasonable people seeking to achieve reasonable goals in a reasonable manner; and second, the interpreter should accept the non-rebuttable presumption that members of the legislative body sought to fulfil their constitutional duties in good faith. This formulation allows the interpreter to inquire not into the subjective intent of the author, but rather the intent the author would have had, had he or she acted reasonably.”

(Aharon Barak, Purposive Interpretation in Law, (2007) at p. 87.)

53. In Bharat Petroleum Corpn. Ltd. v. Maddula Ratnavalli [(2007) 6 SCC 81] this Court held: (SCC p. 90, para 22)

“22. Parliament moreover is presumed to have enacted a reasonable statute [see Breyer, Stephen (2005): Active Liberty: Interpreting Our Democratic Constitution, Knopf (Chapter on Statutory Interpretation, p. 99 for ‘Reasonable Legislator Presumption’)].”

54. The provisions of the Act and the Rules in this case, are, thus required to be construed in the light of the action of the State as envisaged under Article 14 of the Constitution of India. With a view to give effect thereto, the doctrine of purposive construction may have to be taken recourse to. (See Oriental Insurance Co. Ltd. v. Brij Mohan [(2007) 7 SCC 56 : (2007) 3 SCC (Cri) 304 : (2007) 7 Scale 753] .)”

Superimposing the aforesaid upon the present Scheme, it is manifest that the government had, keeping in view it being a welfare State, sought to

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extend its “*parens patriae*” obligation upon a category of citizens who would be most vulnerable to the onslaught of the novel Coronavirus. All individuals who were likely to be affected either directly or impacted indirectly while performing the duties and responsibilities cast upon them in the most vulnerable and highly likely areas where the virus could have spread even without being negligent about one’s health, *aka* hospitals, public places with large gathering of people etc., to name a few, were to be covered by the said Scheme. On a pointed query, the learned counsel for the appellants fairly admitted that appellant no.2/hospital was a declared “*COVID-19 Hospital/Facility*” at the relevant point in time. Following the said interpretation, it is obvious that the Scheme sought to cover all workers, call it “*frontline health workers*” or anything else, subject of course to their deployment in areas specified by the Scheme. To our mind, any interpretation other than the above, would defeat the purpose and object of the Scheme.

16. With that backdrop, we would now advert to the facts of this appeal. Undoubtedly, the late husband of respondent no.1 was deployed at the Main Reception Centre of appellant no.2/hospital. It is also a fact that he was deployed as a Security Guard through a Contractor on an outsourced basis. It is also not denied by the appellants that the late husband of respondent no.1 was on duty when the COVID-19 pandemic started spreading its tentacles. From the material on record, it is also admitted that on 03.06.2020 he contracted fever and could not report to duty till he died on 14.06.2020. The medical prescription of the appellant no.2/hospital dated 03.06.2020

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indicates that he reported feeling feverish and was prescribed some medicines and referred to the Fever Clinic to undertake COVID-19 test. Though there is no material to indicate as to whether any such tests were carried out, yet, the Medical prescription dated 08.06.2020 issued by Dr. Prakash Jhuraney is also a clear indicator that the late husband of respondent no.1 was unwell and was undergoing regular treatment. It appears that the late husband of respondent no.1 was brought to the appellant no.2/hospital on the morning of 14.06.2020. However, the appellant no.2/hospital recorded that he was brought dead. It appears that the appellant no.2/hospital had drawn out a sample for finding out the cause of death on 14.06.2020 itself. From a perusal of the Report, it is undoubted that the late husband expired on account of contracting Coronavirus. This is established by the Test Report for COVID-19 dated 15.06.2020 conducted by the Department of Microbiology of the appellant no.2/hospital. That apart, the Authorisation Letter dated 24.03.2020 issued by the Additional Medical Superintendent, VMMC & Safdarjung Hospital to enable him to travel despite curfew in the city would propel this Court to deem it that the services rendered by the late husband of respondent no.1 tantamount to “essential services”.

17. Two things become clear from the aforesaid undeniable facts. One, that the late husband of respondent no.1 was deployed as Security Guard in appellant no.2/hospital; and two, he succumbed as a result of contracting Coronavirus (COVID-19). Given the context, the primordial question to be considered by this Court is as to whether the late husband of respondent

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no.1 would fall within the Scheme of the Central Government dated 30.03.2020? And, if so, whether the respondent no.1 would be an eligible claimant under the Scheme?

18. So far as the first issue is concerned, our view in the preceding paragraphs would lean in favour of holding that the late husband of respondent no.1 would be an eligible person under the Scheme. The reason is not far to see. The late husband of respondent no.1 was indeed deployed in the appellant no.2/hospital which was a full fledged COVID-19 facility as a security guard in the Main Reception Centre of the Out Patient Department within the precincts of the hospital. Having regard to the fact that teeming millions who at that time were infected or impacted by the novel Coronavirus having no clue, what with the doctors themselves being clueless as to how to tackle and treat this, would run helter-skelter to the hospitals for treatment. In that melee, to expect that the uninformed public would be aware of where and which health department to visit once they are in the Facility, surely cannot be countenanced. One can visualise panic struck citizens visiting all departments and facilities where, in their perception, treatment would be available. It does not stand to reason that such individuals would stand in a queue and visit only the designated COVID-19 facility alone. Moreover, it cannot be denied by the appellants themselves that the novel Coronavirus was a deadly airborne disease besides being highly infectious, which spread easily in air and through touch. It also cannot be said with any degree of conviction or surety that the staff, like the late husband of respondent no.1 did not or could not come in

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contact with any one of such teeming millions of affected persons. Thus, the late husband of respondent no.1 having been deployed as a security guard at the declared COVID-19 hospital/facility would be as vulnerable as anyone, who may have been posted in the Fever Clinic or any other department of the appellant no.2/hospital. Resultantly, we hold that the late husband of respondent no.1 would fall within the scope of the Scheme.

19. So far as the issue no.2 regarding the eligibility of the respondent no.1 to claim benefits under the Scheme is concerned, the learned counsel for the appellants had vociferously argued against it. According to him, in short, the late husband of respondent no.1 was not deployed in the critical care centres or the fever clinic nor was deployed for or in connection with COVID-19 related duties, hence his unfortunate death would not qualify within the ambit of the said Scheme. He had stoutly urged, by referring to various FAQ's particularly FAQ Nos. 3 and 5, that these instances would amply establish the ineligibility of the respondent no.1 to any benefits under the Scheme. Though, the submission of the learned counsel appears to be attractive, nevertheless, cannot sustain. It is correct that under the law of insurance jurisprudence, the terms and conditions of the proposal have to be read strictly and Courts cannot supply any "*casus omissus*". Yet, in the present case, we have already concluded that the late husband of the respondent no.1 would fall within the vulnerable category as specified in the Scheme. The clarificatory letter dated 23.09.2021, of the Ministry of Health and Family Welfare, is unduly restrictive and denudes the Scheme of its intention, and is held to be so. Any subsequent clarification, interpreting

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to the contrary of what the principal document holds, cannot, in any manner whatsoever, be upheld. That being so, issue no.2 is held in favour of the respondent no.1.

20. The reasons and rationale behind the impugned judgement is squarely upheld by this Court, for the above additional reasons too.

21. The upshot of the above analysis results in the present appeal being dismissed without any order as to costs. The appellants would implement the directions contained in the impugned order in para 17 within a further period of 4 weeks, failing which interest at the rate of 9% would be liable to be paid by the appellants.

22. In view of the aforesaid, the pending applications also stand disposed of.

TUSHAR RAO GEDELA, J

VIBHU BAKHRU, ACJ

JANUARY 16, 2025/*rl*

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