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

\+ W.P.(C) 6779/2024, CM APPL. 41373/2025

MUNNI KANWAR .....Petitioner

Through: Mr. Ankur Chhibber, Mr. Anshuman Mehrotra, Mr. Nikunj Arora, Mr. Arjun Panwar, Mr. Prahil Sharma, Mr. Amrit Koul and Ms. Muskaan Dutta, Advs.

versus

UNION OF INDIA AND ORS .....Respondents

Through: Dr. Vijendra Singh Mahndiyan, CGSC with Mr. Vedansh, GP.

CORAM:
HON'BLE MR. JUSTICE C. HARI SHANKAR
HON'BLE MR. JUSTICE OM PRAKASH SHUKLA

JUDGMENT (ORAL)

% **14.08.2025**

C. HARI SHANKAR, J.

1. Ajit Singh Tanwar, the husband of the petitioner, joined the Border Security Force[1] as Sub-Inspector in 1989. At that time, he was found to be in SHAPE-1, i.e., in optimum physical condition. He was subsequently promoted as Deputy Commandant.

2. While he was serving as Deputy Commandant, Ajit Singh Tanwar, while participating with his Commandant in a Walkathon, as its coordinator, collapsed. He was taken to the emergency ward of the NTPC Hospital, Farakka, where he was declared dead on arrival.

3. The issue before the Court is whether, in these circumstances, the petitioner Munni Kanwar, as the widow of Ajit Singh Tanwar, would be entitled to Extraordinary Family Pension[2] and *ex gratia* compensation. The entitlement to EOP arises in terms of the Central Civil Services (Extraordinary Pension) Rules[3], while the entitlement to *ex gratia* arises in terms of Office Memorandum[4] dated 4 August 2016 issued by the Department of Personnel and Public Welfare[5].

4. On 14 May 2023, the petitioner applied for grant of EOP and *ex gratia* compensation in view of the demise of Ajit Singh Tanwar. The said application was rejected by the Deputy Commandant, on behalf of the Commandant, by the following communication dated 27 May 2023:

> "No. Estt-112/EoP/AST/78Bn/23/5319
> HQ 78 Bn BSF, Sanat Nagar,
> Srinagar (J&K), PIN - 190005
> 27 May 23
>
> Smt. Munni Kanwar,
> W/O Shri(Late) Ajit Singh Tanwar,
> VPO-Gidania, The- Chirawa,
> Dist-Jhunjhunu (Rajasthan) PIN 333 027
>
> **GRANT OF EOP TO SMT MUNNI KANWAR, W/O SHRI(LATE) AJIT SINGH, DC-78 BN BSF**
>
> May ref to your L/No. Nil dated 14.05.2023 regarding application for implementation of Extra Ordinary Pension.
>
> 02. In this context, I have been directed to inform that following amounts on account of death claims of Shri (Late) Ajit Singh Tanwar, Dy Comdt remitted to you:-

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[1] "BSF" hereinafter
[2] "EOP" hereinafter
[3] CCS (EOP) Rules
[4] "OM" hereinafter
[5] "DOPPW" hereinafter

(i)	Family Pension	:	Rs. 45,550/- PM with admissible DA upto 13.03.2032 and after that Rs. 27,330/- with DA
(ii)	Leave Encashment	:	Rs. 12,08,533/-
(iii)	GJSPKK(15 lacs in two part)	:	Rs. 30,00,000/-
(iv)	CGEGIS Savings	:	Rs. 64,294/-
(v)	CGEGIS Insurance	:	Rs. 1,20,000/-
(vi)	FA(CBF-55,OOO+ SRF-20,OOO)	:	Rs. 75,000/-
(vii)	DCRG	:	Rs. 20,00,000/-
(viii)	DU	:	Rs. 60,000/-
(ix)	GPF final payment for Rs. 10,72,067/- is pending with PAD BSF for release of payment since 13.01.2023.		

03. It is further informed that 78 Bn BSF has forwarded a Proposal for grant of EOP in your favour to FHQ (Eop Sec) alongwith recommendations of Comdt/DIG/IG. The said proposal was further sent to Medical Dte FHQ for offering expert opinion to the extent that whether NOK is eligible for grant of EOP & Ex-gratia compensation from Central Govt or otherwise, but the same has been returned with following remarks: -

> “Post mortem of the deceased was carried out and as per the report, the deceased die due to "effects of diseased condition of heart as noted above, a natural death". As per statement of Dr. Mohd Mujafar Hussain, Faculty of FMT, Malda Medical College who conducted the post-mortem in SCOI, the cause of death of the deceased is "Sudden coronary heart block with congestive heart failure and is a natural death"
>
> As per Schedule 1-A Rule 3(4) of CCS(EOP) Rule 1939 enumerated at Chapter 2 of Medical Manual, Vol IX, Sudden coronary heart block with congestive heart failure is not found included in the list of disease specified and not covered under

Schedule 1-A Rule 3(4) of CCS(EOP) Rule 1939".

(CHANDAN PAUL)
Dy Comdt/Adjt
For Comdt"

5. The petitioner also issued a legal notice to the respondent in the above regard on 7 November 2023, which was rejected by the Deputy Inspector General, SHQ by the following communication dated 4 January 2024:

"E-mail.shqbandipur@bsf.nic.in Dated, the 4 Jan 2024

To

Mr. Ankur Chibber, Advocate, (By Regt Post)
B/95, Safdarjung Enclave
New Delhi-110029

Sub: - **LEGAL NOTICE**

Kindly refer legal notice dated 07 Nov 2023 served by you on behalf of your client Smt Munni Kanwar W/O Late Shri Ajit Singh Tanwar (IRLA No. 40802619), R/O VPO Gidania, Chirawa, Jhunjhunu, Rajasthan- 333027.

2. The legal notice served by you on behalf of your client i.e., Smt. Munni Kanwar, W/O Late Ajit Singh Tanwar in the light of grant of ex-gratia and Extra Ordinary Pension as per Rule 3-A of the CCS (EOP) Rules as allegedly Shri Ajit Singh Tanwar did not have any subsisting heart condition prior to his untimely demise.

3. In this connection, it is to inform that case for sanction of ex-gratia & EOP has been taken up with FHQ (Adm Dte: EOP Sec) New Delhi but same has been received back to unit as the case is not covered under CCS (EOP) Rules, 1939 due to following reasons: -

(i) "Post mortem of the deceased was carried out and as the report, the deceased died due to "effects of diseased condition of heart as noted above, a natural cause". As per statement of Dr. Mohd. Mujafar Hussain, faculty of FMT, Malda Medical collage who conducted the post-mortem in SCOI, the cause of death of the deceased is "Sudden coronary heart block with congestive heart failure and is a natural death".

(ii) As per Schedule 1-A, Rule 3 (4) of CCS (EOP) Rule 1939 enumerated at Chapter 2 of Medical Manual, Vol IX, Sudden coronary heart block with congestive heart failure is not found included in the list of disease specified and not covered under Schedule-1-A, Rule 3 (4) of CCS (EOP) Rule 1939.

4. You are requested to apprise your client accordingly,

04/1
Dy Inspector General
SHQ BSF Bandipur"

6. Aggrieved by the aforesaid rejections, the petitioner has approached this Court by means of the present writ petition, praying that the afore-noted communications dated 27 May 2023 and 4 January 2024 be quashed and set aside and that the respondents be directed to disburse, to the petitioner, *ex gratia* in terms of the DOPPW OM dated 4 August 2016 and EOP in terms of Rule 3-A of the CCS (EOP) Rules, along with interest.

7. Pleadings in the writ petition have been completed.

8. We have heard Mr. Ankur Chhibber, learned Counsel for the petitioner and Dr. Vijendra Singh Mahndiyan, learned CGSC for the respondents, at length.

9. It is not necessary for us to advert to the rival contentions, as the issue in question is purely legal.

10. After hearing learned Counsel and applying ourselves to the existing law, we are of the opinion that the petitioner is entitled to succeed on both of her claims.

11. The issue is squarely covered by a judgment of a Division Bench of this Court in ***Sunita Devi v UOI***[6].

12. In that case, too, Naresh Kumar, the husband of the petitioner, Sunita Devi, suffered heart attack while participating in the Field Physical Efficiency Test which was part of his official duties and subsequently expired. Sunita, as his widow, was denied EOP and *ex gratia* and, therefore, approached this Court.

13. We may reproduce, for the sake of convenience, paras 5 to 10, 12 to 14, 19 and 20 of the decision in ***Sunita Devi***, thus:

> "5. The entitlement to extra-ordinary pension is governed by the Central Civil Services (Extra-ordinary Pension) Rules, 1939. The relevant provisions are contained in Rules 3(4), 3A, 10, Schedule II and Schedule I-A of the CCS (EOP) Rules which, to the extent relevant, are reproduced as under:
>
> 3(4) "disease" means –
> a disease as is mentioned in Schedule I-A hereto annexed.
>
> **3-A. Disablement/Death -**
>
> (1)(a) Disablement shall be accepted as due to Government service, provided that it is certified that it is due to wound, injury or disease which -
>
> (i) is attributable to Government service, or
>
> (ii) existed before or arose during Government service and has been and remains aggravated thereby.
>
> (b) Death shall be accepted as due to Government service

[6] **2025 SCC OnLine Del 2836**

provided it is certified that it was due to or hastened by -

(i) a wound, injury or disease which was attributable to Government service, or

(ii) the aggravation by Government service of a wound, injury or disease which existed before or arose during Government service.

(2) There shall be a causal connection between -

(a) disablement and Government service; and

(b) death and Government service,

for attributability or aggravation to be conceded. Guidelines in this regard are given in the Appendix, which shall be treated as part and parcel of these Rules.

10. Death due to Government service- When death of Government servant is conceded as due to Government service in terms of Rule 3-A, his widow and children shall be awarded pensionary benefits in accordance with Schedule II hereto annexed.

<u>Schedule II</u> For determining the compensation payable for death or disability under different circumstances, the cases are categorized in five distinct categories as under:

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Category B- Death or disability due to causes which are accepted as attributable to or aggravated by Government service. Diseases contracted because of continued exposure to a hostile work environment, subjected to extreme weather conditions or occupational hazards resulting in death or disability would be examples.

6. Seen in conjunction, Rule 10 entitles the widow and children of a government servant, whose death is conceded as due to government service in terms of Rule 3A, to pensionary benefits in accordance with Schedule II. Schedule II determines the compensation payable for death or disability under various circumstances and sub-divides all cases into five categories. Category B covers death or disability due to causes which are accepted as attributable to or aggravated by government service. This includes diseases contracted due to occupational hazards resulting in death or disability. The Schedule sets out the scales at

which family pension would be payable in cases covered by each of the aforesaid categories including Category B.

7. The expression "disease" is defined in Rule 3(4) as meaning a disease as mentioned in Schedule I-A to the CCS (EOP) Rules.

8. Diseases affected by stress and strain are enumerated under Head B in Schedule I-A, thus:

> "(B) Diseases affected by stress and strain:
>
> (i) Psychosis and Psychoneurosis;
> (ii) Hyperpiesia;
> (iii) Hypertension (Blood Pressure);
> (iv) Pulmonary Tuberculosis;
> (v) Pulmonary Tuberculosis with pleural effusion;
> (vi) Tuberculosis - Non-pulmonary:
> (vii) Mitral Stenosis;
> (viii) Pericarditis and adherent pericardium;
> (ix) Endo-carditis;
> (x) Sub-acute bacterialendo-carditis, including infective endocarditis;
> (xi) Nyocarditis - acute or chronic;
> (xii) Valvular disease;"

9. Though, strictly speaking, a heart attack is not included as one of the diseases affected by stress and strain, we are of the opinion that a reasonable and meaningful interpretation has to be accorded to the Schedule. When the Schedule includes hypertension and valvular disease in the list of diseases covered under Head B, as diseases affected by stress and strain, it is irrational and illogical to hold that if a person suffers a heart attack, it would not be covered under the Schedule. This would also render the Schedule *prima facie* arbitrary, and it is a well settled principle of interpretation that any interpretation which renders a statutory provision to be arbitrary or unconstitutional must be avoided.

10. We also note that, probably apparently aware of this lacuna, the CCS (EOP) Rules have been renotified on 30 January 2023 and that the 2023 CCS (EOP) Rules includes, after serial no. (xii) under the Head of "diseases affected by stress and strain", "heart attack/cardio related diseases".

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12. Given all these facts, we are of the opinion that the

petitioner cannot be denied extraordinary pension following the death of her husband which took place owing to a heart attack suffered during the course of undergoing FPET, which was part of his duties as a Constable in the 151st Battalion of the BSF. We, therefore, hold that the petitioner would be entitled to extraordinary pension as claimed in accordance with Schedule II to the CCS (EOP) Rules.

13. Insofar as the entitlement of the petitioner to *ex gratia* is concerned, the petitioner predicates her claim on an Office Memorandum dated 11 September 1998 issued by the Department of Pension and Pensioners' Welfare, para 5 of which reads thus:

> "5. In supersession of all earlier orders issued by Government as well as by individual ministries and departments in so far as these relate to the payment of an ex gratia lumpsum compensation in certain specified circumstances, the President is pleased to decide that families of Central Government Civilian employees who die in harness in the performance of their bonafide official duties under various circumstances shall be paid the following ex gratia lumpsum compensation:
>
> (a) Death occurring due to accidents in the course of performance of duties ₹ 5.00 lakhs
>
> (b) Death occurring in the course of performance of duties attributable to acts of violence by terrorists, anti-social elements, etc. ₹ 5.00 lakhs
>
> (c) Death occurring during (a) enemy action in international war or border skirmishes: and (b) action against militaries, terrorists, extremists, etc. ₹ 7.50 lakhs"

14. The rates of *ex gratia*, available under the aforesaid OM were revised by para 11 of the DOPW OM dated 2 September 2008, thus:

> "11. In terms of Department of Pension & PW O.M. No.45/55/97-P&PW(C) dated 11.9.1998, an ex gratia lump sum compensation is available to the families of Central Government Civilian employees, who die in the performance of their bona fide official duties under various circumstances. The amount of this ex-gratia lump sum compensation shall be revised as under :

(a) Death occurring due to accidents in the course of performance of duties ₹ 10.00 lakh

(b) Death occurring in the course of performance of duties attributable to acts of violence by terrorists, anti-social elements, etc. ₹ 10.00 lakh

(c) Death occurring (a) enemy action in international war or border skirmishes: and (b) action against militants, terrorists, extremists, etc. ₹ 15.00 lakh

(d) Death occurring while on duty in the specified high altitude, inaccessible border posts, etc on account of Natural disasters, extreme weather conditions. ₹ 15.00 lakh

The Department of Pension & PW O.M. No.45/55/97-P&PW(C) dated 11.9.1998 shall stand modified to this extent."

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19. Mr. Rahul Sharma has, with commendable fairness, also submitted that a similar view has been taken by a Division Bench of this Court in ***Sangita Tomar v UOI***[7], which was also a case of heart attack. The *ratio decidendi* of the said decision is to be found in the following paragraphs:

"16. Pertinently, the twin questions which are required to be determined by this Court in the present petition are, first; as to whether consequent upon death of Ram Kumar Singh EXGO-004185-K AE 9 CIVIL, who was working with Esteemed Border Roads Organisations (EBRO), his wife i.e. petitioner, who is his NoK, is entitled to grant of ex gratia compensation and second; whether she is entitled to appointment on compassionate grounds.

17. Relevantly, the conditions for grant of ex gratia compensation has been laid in by Department of Pension & Pensioners' Welfare vide OM No. 45/55/97-P&PW (C) dated 11-9-1998 and amended vide OM No. 38-37-2016-P7-PW(A)(i) dated 4-8-2016, whereunder the main condition for payment of ex gratia lump sum compensation is "that the death of employee concerned should have occurred in actual performance of bona fide official duties. In other words, a casual connection should be established between the

[7] **2022 SCC OnLine Del 2671**

occurrence of death and government service".

18. Petitioner has placed reliance upon decision of this Court in *Ram Devi*, wherein consequent upon death of Head Constable in BSF because of "cardio respiratory arrest due to multi-organ diseases and in particular liver cirrhosis"; his wife was denied ex gratia compensation by the competent authority and this Court had observed as under:

> "20. Blending the statutory definition of active duty in the potion of the two office memorandums, in harmony with the rule of interpretation of beneficial legislation, it can be said that the death of a force personnel due to heart attack suffered just after performing actual duty would be a case of an accidental death in the course of performance of duties. An accident would be an unfortunate incident that happens unexpectedly and unfortunately; an event that happens by chance or that is without apparent or deliberate cause; a circumstance or attribute that is not essential to the nature of something; a misfortune."

19. Reliance is also placed by petitioner upon a decision of High Court of Punjab and Haryana in ***Pushpa Devi v Union of India***[8], wherein the learned Single Judge in a case where a driver employed under Border Roads Organisation had died of heart attack, granted ex gratia compensation to his widow while relying upon decision of Division Bench of High Court of Punjab and Haryana in ***Kamlesh Devi v State of Punjab***[9], wherein it was held that the word "accident" would also include person dying of "heart attack" which is an unexpected event which happens without design.

20. It is not disputed that Ram Kumar Singh EXGO-004185-K AE 9 CIVIL was serving a hard posting at 476 RMPL in Shergaon, Arunachal Pradesh when he died of heart attack on 21-1-2018. It is also not disputed that out of his last three postings, two were in high altitude areas and the last was a hard posting. There is no denial from the respondents that in the family of the petitioner, there is no history of death by heart attack. Moreover, at the time of filing of the present petition, father of the petitioner, aged 83 years, was said to be living a healthy life. The cause of death of petitioner's husband has been opined as "acute myocardial infarction". In medical terms, the reasons for most myocardial infarctions are coronary

[8] **2017 SCC OnLine P&H 5537**
[9] **2001 SCC OnLine P&H 1507**

artery disease due to prolonged deprivation of oxygen supply and when one or more areas of heart muscles do not get enough oxygen, it results into heart attack. It is not wrong to presume here that due to various postings in high altitude areas, Ram Kumar Singh might have been deprived of oxygen necessary for a healthy heart and sustained medical problems, which could not be known at initial stage. It is admitted by respondent that on 20-1-2018, deceased Ram Kumar Singh had gone to visit the road sector OKSRT road and Shergaon-Morshing-Phudung Road and returned to his location at 476 RMPL in Shergaon at 1910 hours and on return he complained of chest pain and at about 1945 hours, he was rushed to the Military Hospital Tenga Valley, which is indisputably located at a distance of 65 km and so, the necessary medical assistance which supposedly was required to be provided to him instantly, however, could only be given after approximately three hours thereof.

21. Accordingly, we find no hesitation to hold that death of petitioner's husband happened during the official course of his duties and, therefore, petitioner being the NoK of deceased Ram Kumar Singh is entitled to grant of ex gratia compensation. Consequently, order dated 19-10-2019 passed by the respondent relying upon DoP OM No. 45/55/97-P&PW(C) dated 11-9-1998; amended vide OM No. 38-37-2016-P&PW(A)(i) dated 4-8-2016, for rejection of grant of ex gratia pension to petitioner, is misplaced, as the case of deceased falls under the category of “death due to accident in course of performance of duties”. Hence, petitioner is entitled to grant of ex gratia lump sum compensation of Rs 25,00,000 in terms of Clause 12.1 of OM No. 38-37-2016-P&PW(A)(i) dated 4-8-2016.”

20. Following the law laid down in the aforesaid decisions, we have no doubt in our mind that the petitioner would also be entitled to *ex gratia* compensation as per the rates contained in the DOPT OM dated 2 September 2008, consequent on the death of her husband, Naresh Kumar, Constable.”

14. The observations and findings in the afore-extracted passages from the decision in ***Sunita Devi*** apply *mutatis mutandis* to the present case.

15. The only ground on which the petitioner's entitlement to EOP and *ex gratia* is sought to be contested is that the post mortem report of Ajit Singh Tanwar certified that he had died due to the effect of the diseased condition of his heart, which was a natural cause. The doctor, who conducted the post mortem, opined that the death of Ajit Singh Tanwar was owing to sudden coronary heart block with congestive heart failure. The respondents seek to deny EOP to the petitioner on the ground that sudden congestive coronary heart block with congestive heart failure is not included in the list of deceases enlisted in Schedule 1-A read with Rule 3(4) of the CCS (EOP) Rules.

16. In this context and keeping in line with our decision in ***Sunita Devi***, we agree with Mr. Chhibber's contention that coronary heart block and congestive heart failure were mere manifestations of the underlying heart condition of the petitioner which, even as per the post mortem report, was a deceased heart. The respondents have apparently conflated the immediate predisposing symptoms which led to the death of Ajit Singh Tanwar with the underlying cause of death. Attributability to military service, for any purpose, including entitlement to EOP or *ex gratia*, has to be assessed with respect to the cause of death, and not with respect to the immediate predisposing symptoms.

17. The cause of Ajit Singh Tanwar's death was, unquestionably, his underlying heart disease, which manifested in the form of coronary heart block with congestive heart failure.

18. Viewed thus, the issue is squarely covered by our decision in

Sunita Devi in which, in identical circumstances, we held the petitioner Sunita Devi to be entitled to EOP and *ex gratia.*

19. We may also note, in this context that, sub-heading B of Heading I (List and Classification of Diseases which can be contracted by service) in Schedule 1-A to the CCS (EOP) Rules which enlists the various diseases which can be regarded as contracted due to service and which, if responsible for the death of the officer concerned, would entitle his widow to EOP enlists, under heading B (Diseases affected by stretch and strain), the following:

> "(viii) Pericarditis and adherent pericardium.
>
> (ix) Endo-carditis.
>
> (x) Sub-acute bacterialendo-carditis, including infective endocarditis.
>
> (xi) Nyocarditis – acute or chronic.
>
> (xii) Valvular disease."

20. Thus, various underlying heart conditions have been recognized as entitling the widow of personnel of the Armed Forces, who may unfortunately expire owing to such underlying heart conditions and their manifestations, to EOP.

21. Even viewed thus, we are of the opinion that, as the coronary heart block and congestive heart failure, which were the immediate predisposing manifestations prior to the death of Ajit Singh Tanwar were admittedly attributable to his underlying deceased heart, it would be unjust, unfair and against the very spirit of the CCS (EOP) Rules to deny extraordinary pension to the petitioner.

22. For the same reason, and following our judgment in ***Sunita Devi***, we hold that the petitioner would also be entitled to *ex gratia* of ₹ 25 lakhs in terms of DOPPW OM dated 4 August 2016.

23. We do not deem it necessary to advert to the petitioner's entitlement to *ex gratia* independently on merits, as our findings in ***Sunita Devi*** sufficiently cover the field in this regard.

24. In view of the aforesaid, the writ petition is allowed.

25. The respondents are directed to disburse, to the petitioner, the amounts due to her towards EOP and *ex gratia* compensation within a period of 8 weeks.

C. HARI SHANKAR, J.

OM PRAKASH SHUKLA, J.

AUGUST 14, 2025/AR