



2026:AHC-LKO:43070-DB

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

WRIT - C No. - 8906 of 2024

Semma Bharti

.....Petitioner(s)

Versus

State Of U.P. Thru. Chief Secy. U.P. Lko. And Another

.....Respondent(s)

Counsel for Petitioner(s) : Sarjoo Ram, Aklavya, Chandan Prasad,
Mamta Rawat, Ravi Kant
Counsel for Respondent(s) : C.S.C.

Court No. - 3

**HON'BLE SHEKHAR B. SARAF, J.
HON'BLE ABDHESH KUMAR CHAUDHARY, J.**

1. Heard learned counsel appearing on behalf of the parties.
2. This is a writ petition under Article 226 of the Constitution of India, wherein the writ petitioner has sought for the following substantial reliefs:-

"(i). Issue a writ, order or direction in the nature of Certiorari to quash the order dated 27.08.2024 passed by the opposite party no.1 (contained as annexure no.1) in the interest of justice;

(ii) Issue a writ, order or direction in the nature of Mandamus commanding and directing to the opposite parties to reliefs the ex-gratia payment of Rs. 50 Lac in favour of the petitioner in the interest of justice."

3. The present petition has been filed by the widow of Late Balwant Pratap, who died due to Covid-19. Learned counsel for the petitioner submits that the petitioner is aggrieved by the impugned order dated 27.08.2024, whereby her claim was rejected on the ground that the petitioner was held not to be covered under the Government Order dated 11.04.2020. It is the submission of petitioner that her husband was a Government employee serving on the post of Head Constable in the Police department and he got infected with COVID-19 disease while discharging his duties with respect to the containment of COVID-19 disease and as such in view of the Government Order dated 11.04.2020 and subsequent notifications dated 22.06.2021 of the State Government the petitioner is entitled for ex-gratia payment

of Rs. 50,00,000/- (Rs. 50 Lakhs).

4. In order to buttress his arguments, learned counsel for the petitioner relies upon Division Bench judgments of this Court dated **May 29, 2023 passed in Writ-C No. 17575 of 2023 (Smt. Premlata Pandey Vs. State of U.P. and others)** and dated **July 23, 2024 passed in Writ-C No. 20071 of 2024 (Sadhna Sahu Vs. Union of India and others)** in which persons who have suffered death due to COVID-19, while performing duty for containment of the said pandemic have been awarded the claims as raised by them in their respective petitions.

5. On the other hand, learned counsel for the respondent has supported the impugned order and submitted that the husband of the petitioner (deceased) did not perform any duty so as to come within the expression of "COVID roktham, upchar and bachao" i.e. containment of COVID pandemic/COVID-19 treatment and protection from infection of COVID.

6. Having heard learned counsel for the parties. A perusal of the record would reveal that Chief Medical Officer Lucknow vide a certificate dated 15.07.2021 has certified the death of the husband of the petitioner due to COVID-19 disease. It also appears that the husband of the petitioner (deceased) was assigned duty for the prevention and control of COVID-19 as well as spreading awareness and helping the infected persons due to COVID-19. A certificate dated 21.06.2021 which has been annexed as Annexure No.3, indicates that the deceased was an employee in the police department and was assigned duty for the prevention and control of COVID-19 as well as spreading awareness and helping the infected persons due to COVID-19. The report/certificate further indicates that the deceased was on the front-line and was engaged in spreading awareness amongst the COVID patient. We also find that a recommendation Letter dated 12.05.2021 was also issued in favour of petitioner by the concerned Police Department (Annexure No.4), relating to the release of the said ex-gratia amount in favour of the petitioner by the concerned District Magistrate, Lucknow.

7. Further, we find that a Division Bench of this Court in **Smt.**

Premlata Pandey (Supra) involving similar issue of payment of ex-gratia to the dependent of a Head constable in the Police Department, who died due to COVID-19, noted that a myopic interpretation cannot be given to COVID-Duty so as to confine only to those persons, who were specially assigned to discharge their duties in treatment of people physically in hospitals.

8. Recently, we had an opportunity to examine a similar matter, relating to the grant of ex-gratia amount of compensation as per Government order dated 11.04.2020 to an employee of an Electricity Department in the case of *Smt. Pushpa Devi vs. State of U.P. and others (Writ-C No. 5596 of 2026)*, wherein vide an order dated 02.07.2026 we held that a Government Employee engaged in ensuring an uninterrupted supply of electricity for smooth running of hospitals do face the challenge of COVID 19 pandemic and as such can be included as a Corona Warrior for grant of ex-gratia compensation in event of his/her death due to infection of COVID-19, though not directly deployed in a hospital, upon a pragmatic reading and interpretation of relevant Government Orders dated 20.05.2020 and 22.06.2021 as being subordinate welfare legislation. This Court also observed in the said judgment that Government employees engaged in the electricity department, water supply department, telephone department, police department and such other essential services departments who worked during COVID-Period should be taken to be on COVID-Duty as their discharge of duties helped the State Government in containing the spread of pandemic covid-19 virus and also provided an impetus in the treatment and protection of COVID-19 patients by keeping them in confinement.

9. Since the deceased was engaged as a Head Constable in Police Department and assigned duty for the prevention and control of COVID-19 as well as spreading awareness and helping the infected persons due to COVID-19, he is very much to be treated as a COVID Warrior. Thus, we are of the considered view that the petitioner is fully covered by the Government Order which provides for payment of compensation to the family of a person who contracts COVID-19 while performing duties related to the prevention, control and management of the COVID-19 pandemic. Accordingly, the impugned order dated 27.08.2024 is hereby quashed and set-aside.

10. Ordinarily, we would have remanded the matter to the competent authority for considering the claim of the petitioner *denovo* in view of our aforesaid observation. However, we are cognizant of the time already lapsed in releasing the ex-gratia amount as notably the husband of the petitioner died due to COVID-19 on 21.04.2021 and the issue had been hanging fire for more than five years. Recently, the Hon'ble Supreme Court in the case of ***Mahendra Prasad Agarwal Vs. Arvind Kumar Singh: 2026 INSC 175***, held that if relief deserves then it should be granted then and there and it has further deprecated 'consider jurisprudence' of remanding the matter back. The relevant paragraphs of the aforementioned judgment are extracted as under :

"14. There is no doubt about the fact that the "consider jurisprudence", so routinely adopted these days and if we may use the expression - to throw the ball out of the Court, is counterproductive and harms the system.

15. When a claim of a right is legal and justified, relief must follow. The Constitutional or statutory remedies are not intended for academic discourse. If a case deserves relief, it must be granted then and there, unflinchingly if need be. Balancing of equities is not to be confused with avoiding or postponing the relief. These are not matters of law, but of its working and practice. Unlike law and its procedures, good practices that evolve over a period of time are far more precious than written laws, as it is in this practice that we see acceptance and internalization of the spirit of law. It is necessary to recognize, nurture and develop good practices which become habits. These habits come from the shared belief, values and attitudes that breathe vitality into rule of law. Legal culture integrates collective beliefs, fostering habits. It is necessary and in fact compelling to keep our remedies simple, effective and efficient."

11. Keeping the totality of the aforesaid facts and circumstances and for all the aforesaid reasons, **the writ petition is allowed.** Accordingly, the respondents/authority concerned is directed to make payment of ex-gratia compensation as per the Government Order

dated 11.04.2020 to the petitioner within a period of eight weeks from the date of production of a certified copy of this order.

12. There shall be no order as to cost (s).

July 3, 2026
Praveen

(Abdhesh Kumar Chaudhary,J.) (Shekhar B. Saraf,J.)