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

Date of Decision: 21st September, 2023

+ **W.P.(C) 11481/2021**

JOSEPH VARGHESE Petitioner

Through: Mr. Manoj V. George, Ms Shilpa Liza George, Mr. KM Vignesh Ram, Mr. Nasib Masih, Advocates (M: 9811404903)

versus

UNION OF INDIA & ORS. Respondents

Through: Mr. Anurag Ahluwalia CGSC for R-1.

Mr Anupam Srivastava, ASC for GNCTD with Mr Mr Dhairya Gupta, Advocate for GNCTD. (M: 9811128170)

Mr. Satyakam, ASC.

CORAM:

JUSTICE PRATHIBA M. SINGH

Prathiba M. Singh, J. (Oral)

1. This hearing has been done through hybrid mode.
2. In the present case, the Petitioner is the husband of late Smt. Rachel Varghese (*'the deceased'*), who was working with the Respondent No. 3 Medeor Hospital, Qutub Institutional Area, New Delhi (formerly known as Rockland Hospital) as a Quality Manager in the Blood Bank which is in close proximity of the Intensive Care Unit (*'ICU'*).
3. According to the Petitioner, during the COVID-19 Pandemic, the deceased continuously attended to the duties in the Blood Bank in the Respondent No. 3-Hospital which was notified as a COVID-19 hospital vide order dated 24th May 2020, notified by the Directorate General of Health Services (*'DGHS'*).



4. She developed fever on 10th June, 2020 and unfortunately, passed away on 17th June, 2020, due to COVID-19.

5. Vide the present petition, the Petitioner prays for grant of ex-gratia compensation in terms of the Cabinet Decision No. 2835 dated 13th May, 2020, regarding awarding of compensation to family of employees who die of the disease while on COVID-19 duty. The Cabinet decision is set out below:-

“CABINET DECISION NO. 2835 DATED 13.05.2020

Subject: Cabinet Note regarding awarding compensation to family of employees who die of the disease while on COVID 19 duty.

Decision: The Council of Ministers considered the note of Minister (H&FW) and approved that any person including Doctor, Nurse, Paramedical Staff, Security/Sanitation staff or any other Govt Officer/Official, including Police Officer/Official, whether temporary or permanent employee or contractual in Government or Private Sector, deployed for COVID-19 duties by Government of NCT of Delhi, if expires by contracting the disease during discharge of his/her duty, his/her family shall be paid an ex gratia amount of Rupees One Crore, posthumously

The concerned Department/Agency, where the person was employed, will submit the case with their recommendations, enclosing the report of Death Audit Committee and report of Medical Superintendent/In-charge of the Hospital/Medical Institutions to Revenue Department, GNCTD for further processing for payment of the ex-gratia and same shall be put up to Minister (Health), through Minister (Revenue) for the approval of Hon'ble Chief Minister. After approval of Hon'ble Chief Minister ex-gratia amount will be paid by Revenue



Department to bona fide beneficiary from Major Head 2235-60-200-62-00-50 other charges.”

6. The prayer in this writ petition is for award of ex-gratia compensation of Rs.1 crore. Mr. Manoj Varghese George, Id. Counsel for the Petitioner had made his submissions and had taken the Court through the various documents which have been placed on record wherein the case of the Petitioner’s wife was awarded due consideration by the respective Departments of the GNCTD, i.e. Health & Family Welfare and Revenue Department.

7. Reference is specifically made to a reply to an RTI application, dated 29th July 2021, received by the Petitioner wherein the list of persons to whom ex-gratia compensation has been paid is disclosed. The list consists of 17 individuals, which includes a Technical Supervisor at Lok Nayak Hospital, Lab Technician at Hindu Rao and a Lab Technician at Chaudhary Brahm Prakash Ayurved Charak Sansthan (CBPCAS), Delhi.

8. According to the Petitioner, the wife of the Petitioner is similarly placed to these individuals and hence cannot be discriminated. As per the above Cabinet Decision, any person including Doctor, Nurse, Paramedical Staff, Security/Sanitation staff or any other Govt Officer/Official, including Police Officer/Official, whether temporary or permanent employee or contractual in Government or Private Sector, deployed for COVID-19 duties by Government of NCT of Delhi, are also entitled for *ex gratia* compensation.

9. The Petitioner was heard on 22nd March, 2023 and the Court had observed as under:

“9. *Upon a perusal of the record, the case of the*



Petitioner for the payment of Rs.1 crore was processed by the Respondent No. 2-Health Ministry/GNCTD, and a query was raised whether the Respondent No. 3-Hospital was a COVID-19 Hospital. In respect thereof, a clear observation was made that the Respondent NO. 3- Hospital was a COVID-19 Hospital as on 31st December, 2020 which is also reflect as under:-

“25. Vide Notification No. F23(443)/GEN Circular/NHC/DGHS/HO/5366-77 dated 24.05.2020. All Private Hospitals having bed strength of 50 beds or more were directed to reserve / ear mark 20% of their total bed strength for Covid-19 Patients. The list of 117 hospitals included both Medeor, Qutab & Medeor Dwarka. The copy of the said order is placed opposite at 33/c to 37/c.”

10. *Again, on 1st January, 2021, this fact is noted that the Respondent No.3- Hospital was a COVID-19 Hospital. This entire file was put up before the Respondent No. 2-Minister for Revenue, with the clear statement that the Hospital where the deceased was working was a COVID-19 Hospital. Despite the same, the case of the Petitioner for compensation due to his wife's demise was rejected vide letter dated 22nd June 2021. Specific reference is made to paragraphs 48 to 52 from reply dated 29th July 2021 to the Petitioner's RTI Application annexed to the present writ petition which reads as under:-*

“48. The matter regarding grant of Ex-gratia of Rs. One Crore to the family of deceased Smt. Rachel Joseph, Quality Manager, Blood Bank, expired after getting infected with COVID-19 on 17.06.2020, while performing duty was processed vide note at page 01/N.

49. It is pertinent to mention here that as per report of Medical Superintendent, the



deceased was working with Medeor Hospital, Outab Institutional area, New Delhi as Quality Manager in Blood Bank which is in close proximity of the Intensive Care Unit. As per Cabinet Decision No. 2835 dated 13.05.2020, the deceased should be deployed for COVID-19 duties by GNCTD. In this case, she was not deployed for COVID-19 duty by Govt. of NCT of Delhi, which is a mandatory condition to become eligible for grant of ex-gratia as per above said Cabinet Decision.

50. The matter was sent to Health Department seeking clarification regarding eligibility of employee for ex-gratia payment to family of late Ms. Rachel Joseph. The matter has been examined in Health Department vide page 03/N and a clarification was sought from DGHS, H&FW Department that whether the above said hospital was notified as COVID hospital or not.

51. In this regard, DGHS has submitted that the hospital under consideration was drafted as a COVID-19 hospital vide order dated 24.05.2020 (page 33/C to 37/C).

52. In view of above facts, if agreed, the matter may be placed before the Hon'ble Minister (Revenue) to take a view in the matter that whether Smt. Rachel Joseph will be considered eligible for grant of Ex-gratia of Rs. 1 Crore as per the Cabinet Decision No. 2835 dated 13.05.2020.”

11. It is argued that the decision of the Respondent No. 2-GNCTD cannot be discriminatory and arbitrary. Hence the claim for ex-gratia



compensation ought to be granted as per the Petitioner. ”

10. Mr. Manoj Varghese George, Id. Counsel for the Petitioner has also relied upon Guidelines issued by National Blood Transfusion Council (‘NBTC’) titled ‘***National Guidelines to Blood Transfusion Services in India in light of COVID-19 Pandemic***’ dated 25th March 2020, in which Convalescent Plasma Therapy, in the initial stages of the COVID-19 Pandemic, was recognised as one of the main therapies for treatment of COVID-19 patients, which renders the deceased’s duties in the Blood Bank as a critical duty which was performed at that time.

11. The stand of the Respondent, however, was that the Petitioner’s wife was not deployed in Covid-19 duty. The Court then directed as under:

“14. After perusing the record, the only stand of the Respondent No.2-GNCTD in this case appears to be that the Petitioner’s wife was not deployed for COVID-19 duty, as required by the Cabinet Decision. It is unclear from the affidavit filed 18th December 2021 on record by Respondent No. 2- SDM (HQ), Revenue Department, GNCTD as to whether any list exists for persons, who were deployed for COVID-19 duty or not. The affidavit filed on behalf of the Respondent No. 2-SDM Revenue Department does not specifically state if such lists exist.

15. Accordingly, Mr. Srivastava, Id. Counsel for Respondent submits that they would verify and place on record a specific affidavit, whether such list exists, wherein individuals who were posted for Covid-19 duty are listed by Respondent No. 2. Secondly, whether all the individuals who were granted ex gratia compensation until now under the above Cabinet Decision were specifically included in those lists or not would also be required to be examined.

16. A perusal of the counter affidavit dated 18th



December 2021 placed on record by Respondent No. 2-GNCTD, shows that Respondent No. 3- Medeor Hospital name has appeared at serial no. 40 of the COVID-19 Hospitals as directed on 24th May, 2020 by the Respondent No. 2-GNCTD.

17. **This Court also takes judicial notice of the fact that a number of cases where COVID-19 ex-gratia compensation is being sought are being referred and taken up by the Group of Ministers ('GOM') and specific reasons have been given, either for granting or not granting of the ex-gratia compensation. Accordingly, even in the present case, it is deemed appropriate, in view of the Cabinet Decision relied upon by the Petitioner, that this case should also be placed before the GOM in its next meeting.**

18. *Let the decision of Group of Ministers in respect of the Petitioner's case be placed on record by the next date of hearing."*

12. As per the above order, the decision of the Group of Ministers (GoM) was awaited, and a couple of adjournments had been sought for holding of the said meeting of the said GoM. On 4th September 2023, Id. ASC submitted that the GoM meeting to consider grant of COVID-19 *ex-gratia* compensation was scheduled for 13th September 2023.

13. Today, Mr. Satyakam, ASC for the GNCTD has submitted that the GoM meeting took place on 13th September, 2023 and the Petitioner's case has been unanimously recommended for grant of *ex-gratia* amount of Rs.1 crore to the family members of the deceased. The decision is set out below:



S. No	Details of the Deceased	Brief facts	Recommendation of the Committee
1.	Name and designation of deceased	Smt. Rachel Joseph Quality Manager	<p>This case was earlier rejected by the Hon'ble Minister (Revenue) considering that the deceased was performing her normal routine duties. Husband of the deceased filed a case in Hon'ble High Court and as per directions of the Hon'ble High Court, the case of Late Smt. Rachel Joseph was again placed before the Group of Ministers in the meeting.</p> <p><u>The representatives of Medeor Hospital have also attended the meeting who clarified that the Medeor hospital was converted into a designated COVID hospital vide order dated 07.06.2020 by GNCTD. However, before declaring it a COVID facility, the COVID positive patients were also admitted and getting treatment there. The employees of this hospital were under high risk of getting infected by the Corona virus due to COVID patients visiting this hospital. Smt. Rachel Joseph was a Quality Manager in Blood Bank and performing her duty regularly. She became COVID positive while working on duty in the hospital.</u></p> <p><u>The GoM noted that doctor and paramedical staff working in non-Govt. health hospitals which were designated by the Govt. as Covid hospital/facility or whose beds were officially requisitioned/reserved by the Govt. for managing the Covid would also be considered on Covid duty and therefore, unanimously recommended the case for grant of ex-gratia amount of Rs. One Crore to the family members of the deceased in the prescribed ratio.</u></p>
	Department	Medeor Hospital	
	Place of Duty	Blood Bank, Medeor Hospital	
	Order regarding assignment of COVID related duties	<p>As per certificate dated 28.07.2020 issued by Medical Superintendent, Medeor Hospital, "This is to certify that Late Mrs. Rachel Joseph was working with Medeor Hospital, Qutab Institutional Area, New Delhi as Quality Manager in Blood Bank since March 30, 2007. The Blood Bank is situated on the 6th Floor of the hospital which is in close proximity of the Intensive Care Unit ("ICU") on the same floor. While Mrs. Rachel was rendering her services, there were COVID positive patients admitted and getting treatment in the hospital. Mrs. Rachel was admitted in Medeor Hospital on June 13, 2020 with complaints of fever for 03 days and gradually developed shortness of breath, which was increasing progressively on June 15, 2020 at around 1AM. It is on the June 16, 2020, Mrs. Rachel was tested positive for COVID 19. Thereafter, on June 17, 2020 at around 5.02 AM, Mrs. Rachel Joseph succumbed to the virus in spite of the medical team's best efforts to treat her."</p> <p>Vide order dated 07.06.2020 of H&FW Department Medeor Hospital was designated as COVID hospital.</p>	
	Last duty performed	08.06.2020	
	Date of covid positive	16.06.2020	
	Date of Death	17.06.2020	
	Certification by the death audit committee	Certificate is given by Death Audit Committee.	
Details of Beneficiary			



14. In view of the fact that the above decision has now been taken by the GoM for release of the ex-gratia payment of Rs.1 crore to the Petitioner, the present writ petition is disposed of with the direction that the amount of Rs.1 crore be released to the legal heirs of the deceased, i.e., the husband and the son.

15. Ld. Counsel for the Petitioner suggests that the same may be divided equally between the two heirs. Accordingly, it is directed that a sum of Rs. 50 lakhs be released to the Petitioner-Joseph Varghese. The remaining sum of Rs. 50 lakhs shall be released to the son. The said amount of Rs. 50 lakhs released to the son shall be retained by way of an FDR in the name of the minor Mr. Akshay Varghese Joseph by the Petitioner.

16. The interest accrued upon the said FDR may be used for the child's expenses and education. The said FDR would be encashable by the minor upon obtaining majority in the manner he deems fit. The details of the bank account of the Petitioners are given below:

Petitioner/Bank A/c holder: Joseph Varghese
Bank: Federal Bank
Account number: 17290100040672
Branch Name: Othera
Branch IFSC: FDRL0001729

Bank A/c holder: Akshay Varghese Joseph
Bank: Federal Bank
Account number: 17290100022605
Branch Name: Othera
Branch IFSC: FDRL0001729

17. The said amount shall be remitted to the Petitioner by 24th December, 2023.



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18. Accordingly, the present petition, along with all pending applications, is disposed of in the above terms.

PRATHIBA M. SINGH
JUDGE

SEPTEMBER 21, 2023
dj/dn