VERDICTUM.IN

HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

S.B. Civil Writ Petition No. 7194/2022

Sugan Prajapat W/o Late Shri Megha Ram Prajapat, Aged About 54 Years, Resident Of 65, Digvijay Nagar, Pal Road, Jodhpur, Rajasthan, Pin-Code-342003.

----Petitioner

Versus

1. Jodhpur Vidyut Vitran Nigam Ltd., Through Its Managing Director, New Power House Road, Jodhpur, Rajasthan.
2. The Secretary (Administration), Jodhpur Vidyut Vitran Nigam Limited, New Power House Road, Jodhpur.

----Respondents

Rajasthan High Court Web Copy - Not Official

For Petitioner(s)	:	Mr. Rajat Arora
For Respondent(s)	:	Mr. Dinesh Kumar Joshi

HON'BLE DR. JUSTICE PUSHPENDRA SINGH BHATI

Judgment

Reportable

Reserved on 29/01/2024
Pronounced on 13/02/2024

1. This writ petition has been preferred under Article 226 of the Constitution of India claiming the following reliefs:

> *"It is therefore, most humbly and respectfully prayed that the writ petition may kindly be allowed and by issuing an appropriate writ, order or direction:-*
> *i. The order dated 18.01.2021 (Annexure-16) may kindly be quashed and set aside.*
> *ii. The respondents may be directed to release the Ex Gratia amount of 70 Lac Rs.*
> *Iii. The interest be awarded in favour of the petitioner @ 10% p.a. from the date when the claim was arbitrarily rejection by the respondents i.e. from 18.01.2021.*

(Downloaded on 15/02/2024 at 12:21:54 PM)

VERDICTUM.IN

iv. That the Hon'ble Court may be pleased to impose substantial cost on the respondents in the facts and circumstances of the case."

2. As per the pleaded facts, the petitioner is a widow whose husband, Late Shri Megha Ram Prajapat (*hereinafter referred to as 'deceased'*) was working on the post of Executive Engineer in Jodhpur Vidyut Vitran Nigam Limited (JdVVNL), Balotra. After lock down took place due to Covid 19 pandemic, the Superintendent Engineer (Pavas) Jodhpur Discom, Barmer vide order dated 10.04.2020 directed the deceased to ensure continuous supply of essential service of electricity to Covid Care Centres/Quarantine Centres.

2.1. Thereafter, the Finance Department, Government of Rajasthan vide order dated 27.04.2020 decided to grant Rs.50 Lakhs *ex gratia* amount to the dependents/family of the employees of Autonomous Bodies/Boards/Corporations who lost their lives while working on duty due to Covid 19 Virus, and the Head of the aforesaid bodies were to sanction the said amount on recommendation of the Controlling Officer; furthermore, vide order dated 05.06.2020, the respondent-Managing Director, JdVVNL accorded its approval to adopt the earlier orders issued by Finance Department relating to grant of Rs.50 Lakhs and in accordance with the same inserted regulation 2 (i) below the Regulation 29-A (2) in the JdVVNL Pension Regulations, 1988 wherein the above-said amount was to be granted subject to fulfilment of all conditions of Regulation of 29-A of JdVVNL Pension Regulations, 1988 and the said amount was to be in addition to *ex*

(Downloaded on 15/02/2024 at 12:21:54 PM)

VERDICTUM.IN

gratia amount of Rs.20 Lakhs payable under the aforesaid Regulations.

2.2. Subsequently, on 04.09.2020, the deceased felt sick and tested positive for Covid 19 Virus whereafter unfortunately he soon lost his life due to multi organ failure on 12.09.2020. Thereafter, in view of the order dated 05.06.2020, the petitioner submitted an application alongwith Form-17 seeking grant of *ex gratia* amount of Rs. 50 Lakhs with an amount of Rs.20 lakhs (as per the Pension Regulations), whereafter the respondent No.2 addressed a communication dated 05.11.2020 to the Zonal Chief Engineer (Barmer Zone) seeking a detailed report, in regard to entitlement of the petitioner to receive the *ex gratia* amount. In pursuance of the same, the Zonal Chief Engineer (Barmer Zone) wrote a letter to the Superintending Engineer (Pavas), Jodhpur Discom, Jodhpur seeking a comprehensive and detailed report in the matter in question. However, despite the above, vide order dated 18.01.2021, the respondent No.2 refused to accord the above-said benefits to the petitioner.

3. Learned counsel for the petitioner submitted that even though the State Government, as per the aforesaid order, declared compensation of Rs. 50 Lakhs and thereafter the respondents had under the directions of the State Government vide order dated 05.06.2020 introduced the scheme for payment of *ex gratia* amount of Rs.50 Lakhs by way of amendment in the Regulations, the same being in addition to the Rs. 20 Lakhs under the aforesaid Regulation, however no amount was released in favour of the petitioner.

(Downloaded on 15/02/2024 at 12:21:54 PM)

VERDICTUM.IN

RAJASTHAN HIGH COURT
सत्यमेव जयते

3.1. It was further submitted that vide the impugned order, the entire claim of Rs. 70 Lakhs was rejected with the reason that it was not established that the deceased expired due to Covid 19 Virus while fighting against the same on duty.

Rajasthan High Court
सत्यमेव जयते
Web Copy - Not Official

3.2. It was also submitted that the record clearly reveals that as per the directions of the respondent authorities issued vide order dated 10.04.2020, the deceased was discharging his duties by making frequent visits to the Covid Care Centres to ensure continuous and uninterrupted supply of electricity to such Centres (as evident from the logbook of the vehicle), and on count of such visits and during the course thereof, the deceased, at the relevant time, started feeling sick, due to which he underwent the RTPC Test and tested positive for Covid 19; resultantly, unfortunately, on 12.09.2020, he succumbed to Covid 19 effects i.e. multi organ failure and the same is evident from the report as drawn by the AIIMS Hospital.

3.3. Learned counsel, in support of his submissions, placed reliance on the order passed by the Hon'ble Apex Court in the case of ***Gaurav Kumar Bansal v. Union of India & Ors. (W.P. (C) No. 4539 of 2021*** on 24.03.2022 and the judgment rendered by this Court in the case of ***Susheela v. The Union of India & Ors. (S.B.C.W.P. No. 6106/2022***, decided on 29.09.2023) and the judgment rendered by the Hon'ble High Court of Delhi in the case of ***Sangeeta Wahi v. Union of India & Ors. (W.P. (C) 4912/2021***, decided on 18.10.2023), and the judgment rendered by the Hon'ble Allahabad High Court in the case of ***Smt.***

(Downloaded on 15/02/2024 at 12:21:54 PM)

VERDICTUM.IN

Premlata Pandey Vs. State of U.P. & Ors. (Writ -C No.17575/2023, *decided on 29.05.2023)*.

4. On the other hand, learned counsel for the respondents, while opposing the submissions made on behalf of the petitioner, submitted that the deceased was not discharging any special duties during Covid-19 pandemic and that he was discharging his general duties at the Office and thus the respondent department rightly rejected the grant of aforesaid compensation vide the impugned order.

4.1. It was further submitted that the petitioner was entitled to get only the *ex gratia* amount of Rs.20 Lakhs as per the aforesaid Regulation, since the deceased was never directed to visit the Covid Care Centre physically, but was simply directed to coordinate with the nodal officers or in charge of the centre regarding supply of the electricity only, thus it was within the right of the respondent department to reject the application of the petitioner. In this regard, learned counsel referred to para 14 of the reply, in which it has been averred that, "*. . . . .and therefore petitioner was only entitled to get Rs.20 lacs as per Rules . . . . .*".

4.2. It was also submitted that the letter dated 10.04.2020 was not circulated at concerning offices at any time during the period deceased was working in Balotra as per record of the concerned offices, and therefore, the aforesaid letter was not issued to any offices and the authenticity of the same is not genuine.

5. Heard learned counsel for the parties as well as perused the record of the case alongwith the judgments cited at the bar.

(Downloaded on 15/02/2024 at 12:21:54 PM)

VERDICTUM.IN

RAJASTHAN HIGH COURT
सत्यमेव जयते

Rajasthan High Court
सत्यमेव जयते
Web Copy - Not Official

6. This Court observes that the petitioner was working on the aforesaid post in JdVVNL, Balotra and during the period of lock down was tasked with maintaining coordination with concerned nodal officers to ensure continuous supply of electricity to the Covid Care Centres; on 27.04.2020, the Finance Department of Rajasthan decided to grant ex gratia amount of Rs. 50 Lakhs to the dependents/family of employees who died due to Covid 19 Virus while fighting against Covid, whereafter the Managing Director of JdVVNL gave approval to adopt the said orders dated 27.04.2020 and 11.04.2020 and to provide the amount of Rs.50 Lakhs in addition to amount of Rs.20 Lakhs to be provided as per the aforesaid Regulation; subsequently, the deceased felt sick and eventually tested positive for Covid 19, whereafter on 12.09.2020 he finally lost his life due to multi organ failure; an application was submitted by the petitioner for grant of aforesaid benefit of Rs. 70 Lakhs, but the same was rejected by respondent no.2 vide the impugned order.

7. This Court further observes that vide order No. F12(3)FD/Rules/2014 dated 27.04.2020, the Finance Department of Rajasthan had in continuation to the FD order No. F12(3) FD/Rules/2014 dated 11.04.2020 granted *ex gratia* amount of Rs.50 Lakhs to dependents/family of employees who died due to infection from Corona, while on duty for fight against Covid-19; the relevant portion whereof is reproduced as hereunder:

> *"The Head of such Autonomous Bodies/Boards/Corporations shall sanction the ex-gratia on recommendation of the controlling officer on being*

(Downloaded on 15/02/2024 at 12:21:54 PM)

VERDICTUM.IN

established that the employee has died due to infection from Corona, while on duty for fight against Covid-19.

Ex-gratia shall be granted from their own funds by such Autonomous Bodies/Boards/Corporations."

Rajasthan High Court Web Copy - Not Official

8. This Court also observes that the respondent department (JdVVNL) itself approved adoption of the orders dated 27.04.2020 and 11.04.2020, and accordingly, vide order dated 05.06.2020 inserted sub-regulation (2) (i) below the existing Regulation of 29-A (2) in the JdVVNL Pension Regulations, 1988 of the Nigam; the relevant portion whereof is reproduced as hereunder:

"Accordingly, sub-regulation (2) (I) shall be inserted below existing regulation 29-A (2) in the JdVVNL Pension Regulations, 1988 of the Nigam as follows, namely:-

"(2) (i) The dependents/family of the employees of the Nigam who die due to infection from Corona, while on duty for fight against Covid-19, shall be granted ex-gratia of Rs.50.00 Lakhs, subject to filfillment of all conditions of Regulation 29-A of the JdVVNL Pension Regulations, 1988. The Managing Director, JdVVNL will sanction the ex-gratia on being established that the employee has died due to infection from Corona, while on duty for fight against Covid-19.

This ex-gratia of Rs.50.00 Lakhs shall be in addition to Ex-gratia of Rs.20.00 Lakhs payable under Regulation 29-A of JdVVNL Pension Regulations, 1988.

This amount shall not be allowed to those employees who are included in the Pradhan Mantri Garib Kalyan Package: Insurance Scheme for Health Workers fighting Covid-19 declared by the Central Government."

9. This Court further observes that the Chief Engineer vide letter dated 04.03.2021 (Annexure-17) himself admitted that the petitioner had established the fact that the death of the deceased

(Downloaded on 15/02/2024 at 12:21:54 PM)

VERDICTUM.IN

RAJASTHAN HIGH COURT

was in fact occurred due to Covid 19 Virus and he had been infected while discharging his duty for fight against the Corona Virus, and for the same, the petitioner had submitted a certified copy of the log book of vehicle number RJ-19-U-1063 with signature of the deceased dated 26.08.2020 to showcase that the deceased had visited the Covid Centre established by the District Administration at Sivanchi Malani Terapanth Sansthan, Balotra for restoration of power supply; the relevant portion of the said letter dated 04.03.2021 is reproduced as hereunder:

Rajasthan High Court Web Copy - Not Official

"1. उपरोक्त विषयान्तर्गत श्रीमती सुगन प्रजापत *धर्मपत्नि स्व. श्री मेघाराम प्रजापत, पूर्व अधिशाषी अभियन्ता ने इस कार्यालय में प्रार्थना पत्र प्रस्तुत कर अवगत कराया है कि <u>उनके पति स्व. श्री मेघाराम प्रजापत दिनांक 26.08.2020 को माजीवाला 11 केवी फीडर से विद्युत आपूर्ति प्राप्त करने वाले सिवान्ची मालानी तेरापंथ संस्थान, बालोतरा में जिला प्रशासन द्वारा स्थापित कोविड सेन्टर में सांयकाल 6.15 से 7.35 बजे तक बाधित रही विद्युत आपूर्ति को पुनः बहाल करने के लिए कोविड सेन्टर में गए थे</u>। उक्त तथ्य के प्रमाण में दिनांक 26.08.2020 को मृतक अधिकारी के हस्ताक्षर से वाहन संख्या RJ-19-U-1063 की लॉग बुक पेज संख्या 73 की प्रमाणित प्रतिलिपि प्रस्तुत की गई है। इस दिन को सम्बंधित सहायक अभियन्ता (ग्रामीण) जोविविनिलि,बालोतरा द्वारा लिए गए शट –डाउन की प्रमाणित प्रतिलिपि भी संलग्न की गई है।*

उपरोक्त आधार पर मृतक अधिकारी की आश्रिता ने श्री मेघाराम प्रजापत की कोविड–19 ड्यूटी पर रहते हुए संकमित होकर मृत्यु होने सम्बन्धी दस्तावेज/साक्ष्य प्रस्तुत कर यह स्थापित किया है कि उनकी मृत्यु Fight against Covid-19 से सम्बंधित कार्य करते हुए कोरोना से संकमित होने से राज्य सरकार एवं निगम के आदेश कमांक 59/206/ दिनांक 05.06.2020 के अनुसार देय परिलाभ की मांग की गइ है।

चूंकि स्व. श्री मेघाराम प्रजापत अधिशाषी अभियंता के पदीय कर्तव्याों के निर्वहन कर रहे थे तथा इसके अनुरूप <u>उन्हें अक्सर उच्च पदस्थत निगम अधिकारियों व जिला प्रशासन के अधिकारियों के</u>

(Downloaded on 15/02/2024 at 12:21:54 PM)

VERDICTUM.IN

मौखिक निर्देशों की पालना हेतु फील्ड में भ्रमण कर विद्युत आपूर्ति की मॉनिटरिंग का कार्य करना होता था।जिससे कोविड सेण्टर के भ्रमण के दौरान संक्रमित होने का खतरा कई गुणा बढ जाता है। अतः प्रकरण मय प्रार्थना पत्र संलग्न कर सहानुभूतिपर्वक विचार कर मृतक की आश्रिता को देय परिलाभ नियमानुसार स्वीकृत कराने का श्रम करें।"

Rajasthan High Court Web Copy - Not Official

10. This Court also observes that the pandemic was a time of terror and anxiety wherein the entire country had gone into a complete lock down and the people did not wish to leave the safety of their houses, and in such tiring times, the most overworked and burdened was the Health Sector of our country and to ensure the smooth functioning of the Health Sector various other departments of the Government were involved, one of them being the Electricity Department which played a pivotal role in ensuring the continuous supply of electricity to Hospitals and Quarantine Centres/Covid Care Centres, and thus, the personnel belonging to that department played an equally important role in the collective fight against the Covid 19 Virus.

11. To ensure that the family of such citizens of our country who were involved in the continuous fight against the Covid 19 would be taken care of in the unfortunate event of their bread winners losing their lives by succumbing to the said Virus, the Government had taken various measures of providing insurance policies and compensation in monetary terms, thus in the opinion of this Court, once it is established that the present petitioner (wife of deceased) is entitled to receive the compensation so accorded to families similarly situated as that of the present petitioner, such compensation should not be denied to the petitioner. Moreover,

(Downloaded on 15/02/2024 at 12:21:54 PM)

VERDICTUM.IN

the respondents, as reflected from the record, do not dispute the entitlement of the petitioner to receive the *ex gratia* amount of Rs.20 lakhs.

12. Thus, in light of the aforesaid observations and looking into the factual matrix of the present case, this Court is of the opinion that the present petition deserves to be allowed as it is clear that the respondents had themselves incorporated the payment of *ex gratia* amount of Rs. 50 Lakhs, the same being in addition to the Rs.20 Lakhs under the aforesaid Regulation and it is an established fact from the submitted RTPC test, death certificate and the letter dated 04.03.2021 that the deceased was completely falling into the category of the persons so covered by the order dated 05.06.2020.

13. Consequently the present petition is ***allowed***. Accordingly, while quashing and setting aside the impugned order dated 18.01.2021 (Annexure-16), the respondents are directed to pay to the petitioner a sum of Rs.70,00,000/- as *ex gratia*, after adjusting the *ex gratia* amount if any, already paid to the petitioner. Such exercise shall be undertaken and completed by the respondents within a period of three months from the date of receipt of a certified copy of this judgment, failing which the aforesaid payable amount shall carry interest @ 9% per annum till the actual date of payment. All pending applications stand disposed of.

(DR. PUSHPENDRA SINGH BHATI), J.

SKant/-

(Downloaded on 15/02/2024 at 12:21:54 PM)