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

Date of Decision: 12th November, 2024.

+ W.P.(C) 15681/2024

SUBATA KHAN

.....Petitioner

Through: Mr. Rahul Sharma with Mr. Ashish
Gautam, Advocates

versus

GOVT. OF NCT OF DELHI

.....Respondent

Through: Mr. Rishikesh Kumar, ASC with Ms.
Sheenu Priya, Mr. Sudhir Kumar
Shukla, Mr. Sudhir, Advocates.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

JUDGMENT

SANJEEV NARULA, J. (Oral):

1. The Petitioner seeks directions to the Respondents for grant of *ex-gratia* compensation of INR 1 Crore, as per Cabinet Decision No. 2835 dated 13th May, 2020. This claim arises from the untimely demise of her mother Late Mrs. Seema Khan, an Anganwadi worker who succumbed to COVID-19 on 17th April, 2021, when the pandemic was at its peak. The Petitioner contends that her mother work of distributing ration and participating in immunisation camps which qualified as essential services and falls within the ambit of COVID-19 related duties as provided in the Cabinet Decision. The Respondents have although rejected this claim, stating that Mrs. Khan's though essential did not meet the criteria as defined



in the policy. Aggrieved by this decision, the Petitioner has invoked Article 226 of the Constitution of India. The facts leading up to the filing of the present petition are as follows:

2. The Petitioner's mother – Late Mrs. Seema Khan was appointed as the Anganwadi worker in 1982. During the peak of the COVID-19 pandemic in March, 2021, she carried out her duties of distribution of 'Supplementary Nutritional Food'¹ as an Anganwadi worker under Anganwadi Centre² No. 95 in Delhi.

2.1 On 25th March, 2021, also undertook door to door distribution of 'Take Home Ration', in accordance with relevant guidelines. Thereafter, under the aegis of the Child & Development Project i.e. Integrated Child Development Services³, Project Jama Masjid organised an immunization camp for children in AWC from 27th to 29th March 2021, wherein Late Mrs. Seema provided her services on 27th March, 2021, in collaboration with Auxiliary Nurse Midwives⁴.

2.2 The Petitioner states that her mother actively participated in both the immunization camp and the distribution of essential supplies, fulfilling her role as an Anganwadi worker during the height of the COVID-19 crisis. Unfortunately, Late Mrs. Seema contracted COVID-19 infection and tested positive for the COVID-19 RTPCR test on 6th April, 2021. Despite being admitted to the emergency ward at Lok Nayak Hospital on 7th April, 2021, Mrs. Seema Khan succumbed to the infection on 17th April, 2021 and the primary cause of her death was held to be the COVID-19 infection.

¹ "SNF"

² "AWC"

³ "ICDS"

⁴ "ANMs"



2.3 In light of the above, the Petitioner asserts that as a legal heir of her mother, she is entitled to receive the *ex-gratia* compensation awarded to the family members of employees as per Cabinet Decision No. 2835 of GNCTD dated 13th May, 2020, which reads as follows:

**“GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF DELHI
GENERAL ADMINISTRATION DEPARTMENT
(CO-ORDINATION BRANCH)
DELHI SECRETARIAT, I.P. ESTATE, NEW DELHI**

No. F.03/07/2020/GAD/CN/dsgadiii/458-469

Dated: 13.05.2020

TABLED ITEM

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. Officers/Official, including Police Officer/Official, whether temporary or permanent employees or contractual, in Government of 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 Institution 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.

Sd/-
(Vijay Kumar Dav)
Secretary to Cabinet”

2.4. In accordance with the above Cabinet Decision, the Petitioner submitted an application to the MLA of Chandni Chowk, Sh. Parlad Singh Sawhney, to claim the *ex-gratia* payment, providing all requisite documents.



The application was subsequently placed before the Group of Ministers⁵ in a meeting held on 13th September, 2023. However, as recorded in the Minutes of Meeting dated 26th September, 2023, the request for *ex-gratia* compensation to the family of Late Mrs. Seema Khan was denied. The GoM observed that, although Mrs. Khan's role as an Anganwadi worker involved essential services, it was limited to routine duties and did not qualify as COVID-19 duty or COVID-19-related duties such as treatment, facilitation, or care of COVID-19 patients.

3. Counsel for Petitioner argues that the mother of the Petitioner, Late Mrs. Seema Khan provided critical services when COVID-19 was at its peak. The Petitioner's mother was distributing door to door rations, supplementary nutritional food and participating in organised immunization camps for children, as per the directions and guidelines issued by the Department of Women and Child Development, GNCTD⁶. The Counsel contends that these activities constitute essential services, as classified by the Department's order dated 20th March, 2020, which explicitly listed Anganwadi services under "essential services." Moreover, even though through this order, it was directed that field visits were to be minimized, yet Mrs. Seema Khan continued to serve actively, distributing 'Take Home Ration' and participating in the immunization camp.

4. The Counsel further urges that the immunization services provided by Anganwadi workers were essential services during COVID-19, as they involved distribution of ration to children as well as pregnant and lactating mothers. He argues that the Petitioner's mother was directed to perform

⁵ "GoM"

⁶ "Department"



these services exposing herself to the risk of infection—something she would not have done but for the assurances provided by the Government. He submits that her death due to COVID-19 infection, is established from the medical records. Therefore, the Respondent's decision to deny the compensation to her family, is completely arbitrary and unreasonable.

5. Moreover, he submits that the Respondent has failed to appreciate that the pandemic was an unprecedented situation which devastated the lives of a number of families, including that of the Petitioner. He highlights that the Petitioner, who is unmarried and unemployed, has no source of income and tragically has lost both her parents by the age of 22. These circumstances, he argues, warranted a more compassionate approach from the Respondents. He submits that the case of Late Mrs. Seema Khan deserved empathetic consideration, particularly given her service during the pandemic, and that the *ex-gratia* compensation ought to have been granted to support her bereaved family.

6. The Court has carefully examined the submissions and evidence presented. While the facts narrated are undeniably moving and evoke sympathy for the Petitioner's circumstances, the Court finds itself unable to agree with the Petitioner's claim for *ex-gratia* compensation. The decision impugned in this writ petition was rendered by the GoM after deliberations in their meeting held on 13th September, 2023. This decision specifically examined the applicability of the Cabinet Decision No. 2835 dated 13th May, 2020, which announced *ex-gratia* compensation of INR 1 Crore to the families of employees deployed for COVID-19 duties by the GNCTD and who succumbed to the disease during the discharge of their duties. In the Petitioner's case, the GoM concluded that Late Mrs. Seema Khan's role,



while undeniably valuable and classified under “essential services,” did not qualify as COVID-19 duty or COVID-related duty as envisaged under the Cabinet Decision. The minutes of the meeting reflect a clear distinction between routine essential duties, such as those performed by Anganwadi workers, and specific COVID-19 related responsibilities involving treatment, facilitation, or care of COVID-19 patients. The GoM noted that Mrs. Seema Khan was neither deployed in a containment zone nor involved in patient care or specialized COVID-19 relief work. Rather, her contributions, though significant in the broader public service framework, did not meet the parameters set under the Cabinet Decision for *ex-gratia* compensation eligibility. The said decision is as follows:

“64	<i>Name and designation of deceased</i>	<i>Smt. Seema Khan Aanganwadi Worker</i>	<i>The Group of Minister was of the considered view that the case NOT covered under Cabinet Decision No. 2835 dated 13.05.2020 due to reason that the deceased was performing his routine duty as a Aanganwadi Worker which though may be covered as an essential service, however, it is in no way on Covid duty or even Covid related duties involving treatment, facilities or case of Covid patient. He was not performing specific duties like patient care duties/duty in any containment zone during COVID- 19 pandemic /working in COVID designated hospital/ special COVID relief work.</i>
	<i>Department</i>	<i>Department of Women</i>	



		<i>& Child Development.</i>	
	<i>Place of Duty</i>	<i>Integrated Child Development Scheme, Centre No. 95 Chitla Cate, Jamd Masjid, Delhi.</i>	
	<i>Order regarding assignment of COVID related duties</i>	<i>The case was placed before the GoM in the meeting held on 13.01.2023 and GoM was of the view that before taking a final view in the matter, the case may be re-examined with wider prospective keeping in view the deployment by GNCT of Delhi for COVID related duties, nature of duties performed by the deceased, place of her deployment and degree of associated risk of contracting the COVIC-19 during discharge of her duties. After the examination, the matter shall be placed in the next meeting of the GoM. The case has been reexamined. The brief facts of the case are as under: As per the certificate dated 24.03.2022 issued by CDPO, Jama Masjid Project, "Mrs.. Seema Khan, Aanganwadi Worker of AWC No. 95 has performed her duty till 31.03.2021 during the COVID- 19 pandemic. She has</i>	



	<p><i>distributed door to door THR on 25.03.2021 as per guidelines issued by the WCO HQ and organized immunization camp for children at her centre on 27.03.2021 in the collaboration of ANM of the area. Copy of THR distribution schedule and Photos is attached for your kind consideration." As per the certificate dated 10.10.2012 issued by DDO/HOO/CDPO. ICDS Jama Masjid Project, "Seema Khan who was working in ICDS Jama Masjid has performed her last duty on 31.03.2021. There was an immunization camp held for children at her AWC on 27.03.2021, 28.03.2021 & 29.03.2021 being gazetted holidays, she was on leave on 30.03.2021 informing telephonically that she was not well and she could not attend the AWC/office. She has attended duty on 31.03.2021 but left AWC early after submitting monthly reports and other documents by informing that she was having fever and breathing problems.</i></p>	
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		After that she didn't reported in AWC for duty. "She was on leave wef 01.04.2021 due to her illness as per telephonic message received from her."	
	Last Duty performed	31.03.2021	
	Date if covid positive	06.04.2021	
	Date of death	17.04.2021"	

[Emphasis added]

7. As can be seen from the above, the GoM duly considered the Petitioner's case along with all relevant facts, but came to the conclusion that the Petitioner's mother was performing her routine duties as an Anganwadi worker which, even though may be covered as an essential service, are not connected with 'COVID-19 duty' or even 'COVID-19 related duties' which involved services in treatment facilities or handling of cases of patients who contracted COVID-19.

8. It is pertinent to note that as reflected from the minutes of meeting, even though the GoM noted that COVID-19 management also involved vaccinations or distribution of ration to people, it was considered special COVID-19 duty only when the distribution was directed to be done through special distribution centres established by the Government or enforcement in containment zones and for the staff specifically deployed for this purpose by an order of the Government.

9. The Cabinet Decision explicitly provides that *ex-gratia* compensation of INR 1 Crore is to be awarded to families of employees who succumbed to COVID-19 while performing duties specifically related to COVID-19, such



as patient care, facilitation, or deployment in containment zones or COVID designated hospitals/distribution centres.

10. The policy was drafted to recognize the extraordinary risks faced by individuals engaged in such high-risk duties. Undoubtedly, as an Anganwadi worker, Petitioner's mother provided vital services distribution of nutritional food and ration for children and new mothers, yet her services do not meet the narrowly defined criteria, for grant of *ex-gratia* compensation under the Cabinet Decision No. 2835 of GNCTD dated 13th May, 2020. The decision of the GoM is based on distinction between "essential services" and the "COVID-specific duties" envisaged by the Cabinet Decision. Anganwadi services, while critical to public welfare, can be categorized as essential services in the broader sense, but were not linked to the direct handling of COVID-19 cases, containment measures, or relief efforts specific to the pandemic such as distribution through special designated distribution centres. Furthermore, the mother of the Petitioner was not deployed for such special duties by an order of the Government.

11. In light of the above, the Court finds that the decision-making process followed by the GoM was neither arbitrary nor unreasonable. The GoM considered the detailed submissions made by the Petitioner and examined supporting documents, including the nature of Late Mrs. Seema Khan's duties and her deployment during the pandemic. The conclusion that her role, while essential, did not entail the heightened risk envisaged under the policy, is based on cogent reasoning and aligns with the object of the *ex-gratia* scheme.

12. *Ex-gratia* payments are discretionary and not a matter of right. They are granted as a compassionate gesture in extraordinary circumstances,



subject to the specific terms and conditions outlined in the governing policy. Thus, while the Court is empathetic to the Petitioner's loss, it cannot overlook the object and intent of the policy. Moreover, the Court in the exercise of powers under Article 226 of the Constitution can only ensure adherence to the policy and cannot to expand the scope in a manner that overrides the intent behind the policy. Expanding the scope of the *ex-gratia* scheme beyond its intended parameters risks setting a precedent that could lead to unintended misapplications. Accordingly, the Court is not inclined to invoke Article 226 of the Constitution of India to intervene in this matter.

13. Accordingly, the present writ petition is dismissed along with pending application(s).

SANJEEV NARULA, J

NOVEMBER 12, 2024

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