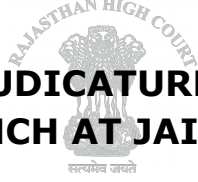


**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**



S.B. Civil Writ Petition No. 19763/2023

Magan Bai Meena W/o Late Shri Ramavtar Meena, R/o Village-
Post Mirzapur, Tehsil Todabheem, District Karoli, Rajasthan,
Postal- 321611

----Petitioner

Versus

1. State Of Rajasthan, Through The Principal Secretary
Department Of Home, Secretariat, Government Of
Rajasthan.
2. The Director General Of Police, Police Head Quarter, Lal
Kothi, Jaipur.

----Respondents

For Petitioner(s) : Ms. Seema Moyal for
Mr. Yunus Khan
For Respondent(s) : Mr. Pradeep Kalwania, GC

**HON'BLE MR. JUSTICE GANESH RAM MEENA
Judgment**

Reserved on : **March 19, 2024**
Pronounced on : **April 20, 2024**

1. The instant writ petition has been filed by the petitioner with a prayer to issue appropriate writ, order or direction to direct the respondents to release *ex-gratia* amount of Rs.20,00,000/- in terms of Rule 75(2)(b) of the Rajasthan Civil Services (Pension) Rules, 1996 (for short "the Rules of 1996") which is payable to her alongwith interest from the date of the death of her husband @9% per annum and further to grant her special pensionary award in terms of Rule 109 read with Rule 111 of the Rules of 1996 and interest @9% per annum on the arrears.
2. Learned counsel for the petitioner submitted that the husband of the petitioner, namely, deceased Ramavtar Meena at the relevant time i.e. on 06.02.2023 was working on the post of

Assistant Sub-inspector in the Police Department and was deputed at Police Station Mahawa, District Dausa. Counsel further submitted that the husband of the petitioner was performing his duties with honesty and dedication to the Department. On 06.02.2023, when the husband of the petitioner was on duty he suffered a heart attack while performing the duties assigned to him. A report was also registered under Section 174 Cr.P.C. in regard to unnatural death of the husband of the petitioner.

Learned counsel further submitted that in view of provisions of the Rules of 1996, the petitioner is entitled for *ex-gratia* amount and so also the special pensionary award.

3. Learned counsel appearing for the respondents has opposed the claim of the petitioner and submitted that the *ex-gratia* amount is not payable in case of a death occurred due to heart failure. Learned counsel also submits that the benefit of special pensionary award is not available to the petitioner under the provisions of Rule 109 and 110 of the Rules of 1996 as the same are not applicable to the case of the petitioner.

4. Considered the submissions made by learned counsel for the respective parties.

5. The brief facts noted are that the husband of the petitioner was a Police Officer under the respondents Home Department and was working on the post of Assistant Sub-inspector and was posted at Police Station Mahawa, District Dausa. On 06.02.2023, when husband of the petitioner was on duty at Police Station Mahawa, District Dausa he suffered a heart attack and died. An inquest report No.4/2023 (Annexure-3) was registered at Police Station Mahawa, District Dausa on 06.02.2023 in regard to

unnatural death of the petitioner's husband. The contents of the report No.4/2023 registered under Section 174 Cr.P.C., clearly speaks that the petitioner suffered a heart attack which resulted in his death while he was on duty. The petitioner after death of her husband, submitted an application for grant of *ex-gratia* amount and so also the special pensionary benefit. The petitioner also served a notice for demand of justice through her counsel.

6. The first issue relates to the grant of *ex-gratia* amount in view of the provisions of Rule 75 of the Rules of 1996. The Rule 75 of the Rules 1996 is quoted as under:-

“Rule 75. Ex-gratia grant to the family of a Government servant:-

(1) Subject to the provision of this chapter except as otherwise provided, an ex-gratia grant shall be admissible under sub-rule (2) to the family of a government servant who dies while on duty in one of the following circumstances, namely :-

- (a) in an accident;
- (b) due to injury intentionally inflicted or caused in consequence of the due performance of his/her official duties;
- (c) due to injury intentionally inflicted or caused in consequence of his/her official position;
- (d) by violence attributable to causes relative to his/her service; or
- (e) in connection with special assignments like “Election Duty”, “Census work” and/or such other assignments which do not fall within normal duties of the post held by the government servant.

[(2) The amount of ex-gratia grant to the family of a government servant who dies in one of the circumstances mentioned in sub-rule (1) shall be as under :-

Sr. No	Clause/Rule	Amount of ex-gratia grant
1.	Under clause (a) to (d) of sub-rule (1)	Rs.20 Lac

2.	Under clause (e) of sub-rule (1),- (i) Unfortunate event of death of the official. (ii) If the death is unfortunately caused due to any violent acts of extremist or unsocial elements like, road mines, bomb blasts, armed attacks, etc. of if the death is caused due to COVID-19 while on election duty	Rs.20 Lac Rs.30 Lac
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Provided that no extra relief shall be granted from sundry government sources to families of deceased Government servants.]

(3) The Ex-gratia grant under sub-rule (2) shall be admissible to the member of family who is entitled for grant of family pension subject to the fulfillment of the following conditions, namely :-

(a) that the death has either taken place on the spot of the accident or during the course of treatment of injuries caused in such an accident prior to him/her being declared fit by the authorized medical attendant for resumption of duty;

(b) that a government servant is killed due to his/her official position subject to the condition that there is a direction connection between occurrence of death and his/her official position;

(c) that it is clearly established on record and certified in the sanction that the death of the government servant has taken place while on duty and this fact is not subject to any dispute; and

Explanation : (i) an accident means sudden and unavoidable mishap while government servant was on duty;

(ii) in the case of death of a government servant while on duty by violence attributable to service, means death as a result of encounter with criminals or in the course of confrontation with mob or crowds of an unlawful assembly during agitation, riot or civil commotion or communal disturbances etc;

(iii) the death of a government servant in the circumstances other than that mentioned in sub-rule (1) shall not be treated as death on duty for this purpose.

(4) An application for grant of ex-gratia shall be submitted to the competent authority in Form 17

appended to these rules within a period of one year from the date of death.

(5) The competent authorities to sanction ex-gratia grant under sub-rule (2) shall be as under :-

S. No.	Under Clause	Competent Authorities
1. 2.	Under clause (a) to (d) of sub-rule (1) Under clause (e) of sub-rule (1)	Head of the Department District Collector/District Election Officer

[(6) Where a government servant sustains permanent disability, like loss of limb, eye sight etc., in connection with election related duties, the amount of Ex-gratia grant shall be as follows :-

S. No	Kind of Mishaps	Amount of Ex-gratia grant
1.	Permanent disability like loss of limb, eye sight etc., in normal conditions while performing election related duties.	Rs.7.50 Lac
2.	Permanent disability like loss of limb, eye sight etc., while performing election related duties, if caused due to any violent act of extremist or unsocial elements like road, bomb blasts, armed attacks etc.	Rs.15 Lac

(7) The amount of ex-gratia grant specified under sub-rule (6) shall be granted to the government servant by the District Election Officer on furnishing an application in Form 17A appended to these rules by the concerned government servant through his/her Head of Office within a period of one year from the date of permanent disability.

Explanation : "Election duty" and "Duty" for the purpose, this shall mean as explained in FD order No.F 1(5) FD/Rules/2010 dated 14.12.2012 under rule 7(8) of Rajasthan Service Rules.]"

7. Rule 8 of the Rajasthan Service Rules, 1951 defines the duty.

The Rule 8 of the Rajasthan Service Rules, 1951 quoted as under:-

"Rule 8 Duty :- (a) Duty includes -

(i) Service as a probationer or apprentice, provided that such service is followed by confirmation.

(ii) Joining time.-

(iii) In respect of a Government servant returning from leave the day of taking over charge of the same post from which he proceeds on leave.

(iv) Probationer-trainee”

8. The inquest report No.4/2023 registered at Police Station Mahawa, District Dausa on 06.02.2023 under Section 174 Cr.P.C. clearly speaks that husband of the petitioner died while he was on duty. The respondents have also does not disputed the said fact that husband of the petitioner died while he was on duty at Police Station Mahawa, District Dausa.

9. The main objection of the respondents is that in a case where a Government servant dies while on duty on account of heart failure he is not entitled for *ex-gratia* amount as the same is not covered under the situations as given in Rule 75 of the Rules of 1996. Rule 75 of the Rules of 1996 speaks for entitlement of *ex-gratia* amount in the case of a death of a Government servant while he/she is on duty, if such Government servant dies in an accident due to injury intentionally inflicted or caused in consequence of the due performance of his/her official duties or due to injury intentionally inflicted or caused in consequence of his/her official position.

10. The Supreme Court in the case of Civil Appeal No.9084/2012 Mst. Param Pal Singh through Father Vs. M/s National Insurance Co. & Anr., considered a situation where a driver who was driving a truck duly insured, died on account of heart attack during the course of his employment. The Insurance Company had repealed the claim on the ground that there was no cause of action between the death of the deceased and death of his employment

and had been caused due to natural causes. In the case of Mst. Param Pal Singh through Father Vs. M/S National Insurance Co. & Anr. (Civil Appeal No.9084/2012), the Apex Court after referring to the decision of House of Lords in Clover Clayton & Co. Vs. Hughes reported in 1910 A.C. 242 and decision of Supreme Court in the case of Shakuntala Chandrakant Shreshti Vs. Prabhakar Maruti Garvali & Anr.: IV (2006) ACC 769 (SC) held in para 27 as under:

"27. Applying the various principles laid down in the above decisions to the facts of this case, we can validly conclude that there was CAUSAL CONNECTION to the death of the deceased with that of his employment as a truck driver. We cannot lose sight of the fact that a 45 years old driver meets with his unexpected death, may be due to heart failure while driving the vehicle from Delhi to a distant place called Nimiaghat near Jharkhand which is about 1152 kms. Away from Delhi, would have definitely undergone grave strain and stress due to such long distance driving. The deceased being a professional heavy vehicle driver when undertakes the job of such driving as his regular avocation it can be safely held that such constant driving of heavy vehicle, being dependent solely upon his physical and mental resources & endurance, there was every reason to assume that the vocation of driving was a material contributory factor if not the sole cause that accelerated his unexpected death to occur which in all fairness should be held to be an untoward mishap in his lifespan. Such an 'untoward mishap' can therefore be reasonably described as an 'accident' as having been caused solely attributable to the nature of employment indulged in with his employer which was in the course of such employer's trade or business."

11. The Co-ordinate Bench of this Court in the case of **Smt. Rameshwari Devi Vs. State of Rajasthan & Ors. alongwith connected petition : S.B. Civil Writ Petition No.2072/2015** decided on **31.05.2017**, has also allowed the *ex-gratia* amount in case of death of a Government servant on account of heart failure. The Co-ordinate Bench in the aforesaid order has observed as under:-

“Thus viewed, the death of the deceased Ramji Lal husband of the petitioner has occurred on account of the stress and strain arising due to the running test which was in the course of employment, the running test was part of the nature of employment and even it is accepted that the deceased was already suffering from heart ailment, it can be safely stated that injury has aggravated due to stress and strain.

Apart from the same coming within the ambit of Rule 75(1)(b), it also falls within the meaning of circumstances mention in Rule 75(1)(e) that is by violence attributable to causes relative to his services. The body of the deceased had suffered violence on account of having been made to participate in a running test which was related to the service.

It is, therefore, held that the petitioner is entitled to receive benefit under Rule 75(2) (b) of the Pension Rules of 1996 and *ex-gratia* amount of Rs.20 Lacs was required to be released in her favour.”

12. The Co-ordinate Bench of this Court in the case of **Smt. Mewa Devi Vs. State of Rajasthan & Ors. : S.B. Civil Writ Petition No.3538/2018** decided on **15.01.2021** relying upon the judgment of **Smt. Rameshwari Devi (supra)** has allowed

the *ex-gratia* amount in case of death of a Government servant while he was on duty because of heart attack. This Court in the case of **Smt. Mewa Devi (supra)** ordered as under:-

“In view of above, this writ petition is allowed and the amount shall not be released alongwith interest @ 6% per annum from the date of the death of the petitioner’s husband. The said amount shall be released positively within a period of one month from today, failing which the petitioner would be entitled to file contempt petition without further notice.”

13. Against the order of learned Single Judge passed in the case of **Smt. Mewa Devi (supra)**, the State has preferred a **D.B. Special Appeal (Writ) No.675/2021** which was dismissed by the Division Bench vide judgment dated 06.04.2022, which is as under:-

“Heard.

This appeal is directed against the order dated 15.01.2021 passed by the Ld. Single Judge whereby the writ petition filed by the respondent has been allowed holding the respondent entitled to receive special pensionary award in terms of Rule 109 of the Rajasthan Pension Rules 1996 (hereinafter referred to as “the Rules of 1996”) as also entitled to receive *ex gratia* amount in terms of Rule 75(2) of the Rules of 1996.

Though, learned State’s counsel urged on facts that it is a case of death due to heart attack, therefore, Rule *per se* do not entitle respondent to receive benefit as in the writ petition, we find that relying upon the judgment of this Court in the case of Smt. Rameshwari Devi Versus The State of Rajasthan & Others, SBCWP No.2072/2015, the petition of the respondent has been allowed.

The facts of the case of Smt. Rameshwari Devi were identical as in the present case. The order passed by this Court in that case was taken to the Supreme Court but SLP was also dismissed.

Considering that the factual background in both the cases were almost identical, we are not inclined to interfere with the order passed by Ld. Single Judge and therefore, the appeal is dismissed.”

14. In view of above, the petitioner being the widow of the deceased-Government servant who died while he was on duty, because of heart attack, is entitled for *ex-gratia* amount of Rs.20,00,000/- in view of provisions of Rule 75 of the Rules of 1996. Since the respondents have illegally deprived the petitioner from receiving the *ex-gratia* amount and therefore, she is also entitled for interest on the delayed payment.

15. The another prayer made by learned counsel for the petitioner is that she may be allowed special pensionary award under the provisions of Rule 109 and 110 of the Rules 1996. Rule 109 and 110 of the Rajasthan Civil Services (Pension) Rules, 1996 are quoted as under:-

“**[109. Applicability.-** This chapter shall apply to the following categories of Government servants on pensionable establishment, whether temporary or permanent. -

(i) Police Personnel whether in regular or irregular Units, including class-IV servant, followers and other non combatant staff attached to police force and Rajasthan Armed Constabulary upto rank of Commandant and Superintendent of Police (other than Indian Police Service Officers) and officials working as Executive Magistrate during Law and Order situations (other than All India Services Officers) who, -

(a) die while on duty, due to act of violence by terrorists, dacoits, criminals, anti-social elements including bomb blasts in public

places or in course of conformation with mob or crowd during agitation, riot or disturbance; or

(b) die while on duty, due to a result of attack by or during action against extremists, anti-social elements, etc.

(ii) Personnel of Preventive or Enforcement branches of Excise, Mining, Forest (other than Indian Forest Service Officers) and Transport Department who charged with duty of enforcement and killed or die as a result of injury sustained while undertaking raids.

Note.- The benefit under these rules shall be restricted only to those cases where the death is directly caused in actual operation.

The following illustrations are for guidelines of sanctioning authorities to determine whether this provision is attracted or not. In case of any doubt, cases may be referred to Finance Department: -

Illustration-1.- Officers of Police or Excise department proceed to carry out a raid. If on the way, any member of the team meets with an accident while travelling in a public /private/official vehicle or otherwise, the family shall not be allowed the benefit under this chapter as the injury/death in such a case is not due to any actual operation. However, if any officer/member of the raid party get skilled/injured as a result of attack by members of the opposite party, family of such member of raid party shall be entitled to the benefits under this chapter.

Illustration-II.- A team of Police/Rajasthan Armed Constabulary (RAC) is deployed on duty during agitations. The agitation does not turn violent but the civil servant dies because of, say, heart failure, and not due to any attack by the crowd. The widow of such a civil servant shall not be entitled to the benefits under this chapter. However, where a team of civil servants including Police personnel are deployed to contain an agitation by extremists, etc., and death of any civil servant takes place as a result of violence during such an agitation, the widow of the deceased shall be entitled to the benefits under this chapter.]”

“[110. Applicability of Award.- Award at the rates specified in Rule 111 shall be granted under this chapter to the family of, -

(a) Police personnel (other than Indian Police Service Officer) and officials working as Executive Magistrate (other than All India Services Officers) who while in service are killed or die under any of the circumstances mentioned in clause (i) of Rule 109;

(b) Personnel of Preventive or Enforcement branches of Excise, Mining, Forest (other than Indian Forest Service Officers) and Transport Department who while in service are killed or die under the circumstance mentioned in clause (ii) of Rule 109.]”

16. The death of husband of the petitioner occurred while he was on duty at Police Station Mahawa, District Dausa because of heart attack but his death is not covered under the situation given under Rule 109 of the Rules of 1996. In such a situation, the petitioner cannot be held entitled for grant of special pensionary award. Accordingly, the claim for special pensionary award is not accepted.

17. In view of above discussion, the present writ petition is partly allowed. The respondents are directed to release the *ex-gratia* amount Rs.20,00,000/- in terms of Rule 75(2)(b) of the Rajasthan Civil Services (Pension) Rules, 1996 in favour of the petitioner alongwith interest admissible to her from the date of death of her husband @9% per annum.

18. Since the main petition is partly allowed, the stay application as well as pending application, if any, also stand disposed of.

(GANESH RAM MEENA),J