



2025:KER:13368

WP(C) NO. 32831 OF 2023

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C.R

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE D. K. SINGH

WEDNESDAY, THE 5TH DAY OF FEBRUARY 2025 / 16TH MAGHA, 1946

WP(C) NO. 32831 OF 2023

PETITIONER/S:

LINIMOL K
AGED 37 YEARS
W/O LATE ANIL A MANKEELTHEKKATHIL KARTHIKAPPALLY P.O
CHINGOLI, ALAPPUZHA DISTRICT, PIN - 690516

BY ADVS.
S.SHANAVAS KHAN
S.INDU
KALA G.NAMBIAR

RESPONDENT/S:

- 1 THE UNION OF INDIA
MINISTRY OF HOME AFFAIRS NDCC- II, BUILDING JAI SINGH ROAD
NEAR JANTAR MANTAR NEW DELHI REPRESENTED BY HOME SECRETARY,
PIN - 110001
- 2 THE DIRECTOR GENERAL
OFFICE OF THE DIRECTORATE GENERAL CENTRAL RESERVE POLICE
FORCE (C.R.P.F) KENDRIYA KARYALAY PARISAR LODHI ROAD NEW
DELHI, PIN - 110003
- 3 THE PAY AND ACCOUNTS OFFICER
CENTRAL PENSION ACCOUNTING OFFICE MINISTRY OF FINANCE
GOVERNMENT OF INDIA TRIKOOT II COMPLEX, BHIKAJI CAMA PLACE



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NEW DELHI, PIN - 110066

- 4 THE COMMANDANT
OFFICE OF THE COMMANDANT-85 BN NAIMED CAMP BIJAPUR
CHATTISGARH, PIN - 494444
- 5 DEPUTY INSPECTOR GENERAL OF POLICE
OFFICE OF THE DEPUTY INSPECTOR GENERAL OF POLICE GROUP
CENTRE CRPF, RANGAREDDY TELANGANA, PIN - 500078
- 6 ADDLR6.THE SENIOR ACCOUNTS OFFICER(PENSION)
PAY AND ACCOUNTS OFFICE, CRPF, MHA, SECTOR-23, NEW DELHI -
110085; IS IMPEADED AS ADDL.R6 AS PER THE ORDER DATED
08.02.2024 IN I.A.2/2024.

BY ADV N.S.DAYA SINDHU SHREE HARI

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
05.02.2025, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:



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JUDGMENT

The petitioner is the wife of the deceased Anil A, who was employed as Constable General duty in the 85th Battalion (Bn) of Central Reserve Police Force (CPRF) deployed at Naxal infested area in Bijapur, Chhattisgarh

2.The late Anil A, was selected in the year 2004. While posted at Bijapur, he died on 24.03.2016 as he fell into a water tank and drowned. The petitioner was granted a family pension at the enhanced rate of Rs.15,700/- per month for the period from 25/03/2016 to 24/03/2026, and thereafter, at normal rate of Rs.9,420/- from 25.03.2026 till her date of death or remarriage, whichever is earlier vide the order dated 27.07.2017 issued by the 3rd respondent, the Pay and Accounts Officer Central Pension Accounting Office, Ministry of Finance, Government of India.

3.The petitioner was also given Ex-gratia compensation of Rs. 10 lakhs and Rs.8 Lakhs as Risk Fund Final Payment and



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Rs. 2,50,000/- each to the parents of the deceased vide the order dated 17.09.2016. Besides the aforesaid amounts, the petitioner and her mother-in-law were given gratuity of Rs.6,22,952/-.

4. As the Husband of the petitioner died in the course of official duty, the petitioner had applied for a grant of extraordinary family pension as provided in terms of Central Civil Service (Extraordinary Pension) Rules, 1972 which are applicable to the personnel of CRPF. The petitioner's claim for Extraordinary Family Pension has been rejected on the grounds that, as per the Court Of Inquiry (COI), the petitioner's husband drowned in the water pond during the Holi celebration as he was in inebriated condition.

5. The learned counsel for the petitioner submits that the petitioner's husband's cause of death, as mentioned in the Postmortem report, 'is Asphyxia due to partial drowning'. There is nothing in the report that liquor or some intoxicant was found in the body of the petitioner's husband during the postmortem



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report. It is not clear how the PAO could come to the conclusion that the petitioner's husband was in an inebriated condition. It is submitted that the petitioner's husband died while on duty, and therefore, the petitioner is entitled to Extraordinary Family Pension as per the CCS (Extraordinary Pension) Rules.

6.The learned counsel for the petitioner submitted that the rules providing for extraordinary family pension should be given a liberal interpretation inasmuch as the rules are welfare provisions, and are intended to support the families of personnel who perform difficult jobs in very hostile and adverse conditions.

7.The learned counsel for the petitioner has placed reliance on the judgment the case of *Madan Singh V. Union of India* [1999(6) SCC 459] and judgment in *Renu Devi V. Union of India* [2020(14) SCC 600]

8.Mr. Daya Sindhu Shreehari, the learned Central Government counsel, submits that on a faithful day, i.e., on 24.03.2016, the Holi festival was being celebrated in A/85 camp, Reddy, at a distance of around 25 km from Bijapur district of



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Chhattisgarh State. All coy personnel gathered at around 08:30 hrs at an identified place in the campus and started celebrating the Holi. After that, some coy personnel, along with the husband of the petitioner, moved to a water pond near the camp at a distance of around 200 meters. All coy personnel returned to the coy location except the husband of the petitioner. As late, Anil A was not found in the camp; he was searched in the adjacent area and found in the pond. Immediately, he was rescued out of the pond but was found in unconscious condition and struggling to breathe. After giving him first aid, he was rushed to the hospital at a distance of 07 km from the coy location, but due to the non-availability of an ECG facility, he was taken to the District Hospital, Bijapur, despite security threats from the Naxals enroute. While undergoing treatment at District Hospital Bijapur, he was declared dead. The postmortem report would suggest the cause of death was Asphyxia.

9.It is admitted in the counter affidavit that, as per the FSL report, no chemical poison was found in his body. The COI was



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ordered to inquire into the circumstances of the death of Anil A to fix the responsibilities, if any. In the COI also, it was found that he expired on 24.03.2016 due to Asphyxia during Holi celebrations, and no individual was held responsible for the same.

10. The COI does not say that the deceased was inebriated. Based on the COI findings, the CRPF authorities have sent the proposal for sanction of Extraordinary Family Pension under category 'C'.

11.It is further stated that the Group Centre CRPF, Pallippuram has entered into correspondence with the Commandant-85 Bn CRPF and requested to take necessary steps to amend final order issued earlier by the DIG(operations) Range Bijapur. Accordingly, DIG (operations) Range Bijapur has partially modified COI- Part-II final order vide the order dated 15.12.2023.

12.The Group Centre CRPF, Hyderabad, has preferred the Extraordinary Family Pension proposal in favour of the



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petitioner to PAO CRPF, New Delhi, through special messenger vide the letter dated 30.12.2023.

13.The Director CRPF, Ministry of Home Affairs, passed an order dated 28.06.2024 and re-iterated their stand. However, it has been said that the CRPF does not agree with the stand of the Pay and Accounts Office (CRPF), and the case may be forwarded to DOP& PW as per the instructions contained under Rule 4 of CCS (EOFP) Rules for clarification on the subject. It is not known whether any clarification has been sought from DOP&PW.

14.I have considered the submissions of the parties.

15.Rule 3 of CCS(Extraordinary pension) Rules defines accident as under:-

(1)"Accident" means-

- i) A sudden and unavoidable mishap; or
- ii) A mishap due to an act of devotion to duty in an emergency arising otherwise than by violence out of and in the course of service.

16. Rule 3A(1)(b) provides that death shall be accepted as due to Government service if it was due to a wound, injury, or disease which was attributable to Government service or the



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aggravation by Government service of a wound, injury or disease which existed before or arose during Government service. It is further provided that there shall be a causal connection between death and the Government service.

17. Rule 10 provides that when the death of a Government servant is conceded as due to Government service in terms of Rule 3-A, his widow and children shall be awarded pensionary benefits in accordance with Schedule II of the Rules. When the death in service is attributable to Government servant, extraordinary family pension is to be computed in terms of CCS (extraordinary pension) Rules and the scheme for liberalized pension awards. If the death in service is attributable to Government duty, the family pension is to be calculated as a minimum pay in the pay band plus grade pay and minimum basic pay in the revised scale of pay.

18. It is not in dispute that the petitioner's husband died while on duty on 24.03.2016. There is no finding either in the COI or postmortem report or in the FSL report to suggest that the



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husband of the petitioner was in an inebriated condition. The rejection of the claim by the PAO CRPF vide the impugned order on the ground that the husband of the petitioner was in inebriated condition, and therefore, rejected the claim for granting extraordinary family pension is not supported by any material which was before them. When the CRPF authorities have not found that the petitioner's husband was in an inebriated condition on a fateful day, the PAO on its own cannot record the reason, which is not the case for CRPF authorities.

19.The Supreme Court in *Madan Singh (supra)*, while interpreting the Pension Regulation for the Army (Part-I), held that it is the duty of the court to interpret a provision, especially a beneficiary provision, liberally so as to give it a wider meaning rather than restrictive meaning, which would negate the very object of the Rule.

20.Paragraphs 15 to 19 of the aforesaid judgment would read as under:-“

“15.It is the duty of the Court to interpret a provision, especially a beneficial provision, liberally so as to give it a wider meaning rather than a restrictive



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meaning which would negate the very object of the Rule.

16. In *Seaford Court Estates Ltd. v. Asher* (1949 2 All ER 155), Lord Denning L.J. (as he then was) held :- "When a defect appears a judge cannot simply fold his hands and blame the draftsman. He must set to work on the constructive task of finding the intention of Parliament . and then he must supplement the written word so as to give "force and life" to the intention of the legislature. A judge should ask himself the question how, if the makers of the Act had themselves come across this ruck in the texture of it, they should have straightened it out ? He must then do as they would have done. A judge must not alter the material of which the Act is woven, but he can and should iron out the creases."

17. This rule of construction is quoted with approval by this Court in *M Pentiah v. Muddala Veeramallappa* (1961 2 SCR 295) and also referred to by Beg, C.J. in *Bangalore Water Supply & Sewerage Board v. R Rajappa* (1978 3 SCR 207) and in *Hameedia Hardware Stores, represented by its Partner S Peer Mohammed v. B Mohan Lal Sowcar* (1988 2 SCC 513).

18. Applying the above rule, we are of the opinion that the rule makers did not intend to deprive the army personnel of the benefit of the disability pension solely on the ground that the cost of journey was not borne by the public exchequer. If the journey was authorised, it can make no difference whether the fare for the same came from the public exchequer or the army personnel himself.

19. We, therefore, construe the words "at public expense" used in the relevant part of the rule to mean travel which is undertaken authorisedly. Even an army personnel entitled to casual leave may not be entitled to leave his station of posting without permission. Generally, when authorised to avail the leave for leaving the station of posting, an army personnel uses what is known as "travel warrant" which is issued at public expense, same will not be issued if person concerned is travelling unauthorisedly. In this context, we are of the opinion, the words, namely, "at public expense" are used rather loosely for the purpose of connoting the necessity of proceeding or returning from such journey authorisedly. Meaning thereby if such journey is undertaken even on casual leave but without authorisation to leave the place of posting, the person concerned will not be entitled to the benefit of the disability pension since his act of



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undertaking the journey would be unauthorised.”

21.The Supreme Court again in *Renu Devi (supra)*, while considering the Regulation 213 of Pension Regulation for the Army, 1961 (Part-I) has held that death during participation in organizing sports events/adventures/activities would also be considered death in the performance of duty, and Special Family Pension would be admissible to the family of the individual on such death.

22.When the CRPF authorities themselves have found that the death of the petitioner’s husband was on duty, and there was no material to suggest that he was in the inebriated condition as alleged by PAO, I am of the view that the petitioner is entitled to extraordinary family pension under the CCS (Extraordinary pension) Rules.

23.In view thereof, I am of the considered view that the impugned order in Ext.P19 is unsustainable. The petitioner is entitled to an extraordinary family pension under the provisions of Central Civil Service (Extraordinary Pension) Rules.

24.Accordingly, the present writ petition is allowed, and the



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respondents are directed to sanction the extraordinary family pension to the petitioner in terms of the CCS(Extraordinary pension) Rules and make the payment accordingly. Arrears, if any are to be calculated and paid within a period of two months from today.

With the aforesaid directions, the present writ petition stands allowed.

sd/-

D. K. SINGH
JUDGE

SJ



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APPENDIX OF WP(C) 32831/2023

PETITIONER EXHIBITS

- Exhibit P1 TRUE COPY OF THE CERTIFICATE OF MARRIAGE DATED 27/10/2009 ISSUED BY THE LOCAL REGISTRAR, CHINGOLI GRAMA PANCHAYAT
- Exhibit P2 TRUE COPY OF THE SERVICE CERTIFICATE DATED NIL ISSUED BY OFFICE OF THE COMMANDANT-163 BN, CRPF, C/O 56 APPO.
- Exhibit P3 TRUE COPY OF THE DEATH CERTIFICATE DATED 30/03/2016 ISSUED BY MEDICAL OFFICER, DISTRICT HOSPITAL, BIJAPUR .
- Exhibit P4 TRUE COPY OF THE REPORT DATED 31/03/2016 SUBMITTED BY THE COMMANDANT OF 4TH RESPONDENT ALONG WITH ENGLISH TRANSLATION OF THE RELEVANT PORTION.
- Exhibit P5 TRUE COPY OF THE POSTMORTEM REPORT DATED 24/03/2016 ISSUED BY DR. BL SHARMA.
- Exhibit P6 PHOTOGRAPH OF THE DEAD BODY TAKEN AT THE TIME OF POST MORTEM .
- Exhibit P7 TRUE COPY OF THE PHOTOGRAPH EVIDENCING THE WAY IN WHICH THE BODY WAS PACKED .
- Exhibit P8 TRUE COPY OF THE PHOTOGRAPH OF THE DECOMPOSED BODY.
- Exhibit P9 TRUE COPY OF THE NEWS PAPER REPORT THAT APPEARED IN MANGALAM DAILY DATED 27/03/2016
- Exhibit P10 TRUE COPY OF THE COMMUNICATION DATED 13/07/2016 ISSUED BY THE 5TH RESPONDENT TO THE PETITIONER.
- Exhibit P11 TRUE COPY OF THE PROVISIONAL PAYMENT ORDER DATED 27/07/2017 ISSUED BY THE 3RD RESPONDENT .
- Exhibit P12 TRUE COPY OF THE SANCTION ORDER DATED 26/05/2016 OF THE DIGP (ADMN)



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Exhibit P13 TRUE COPY OF THE COMMUNICATION DATED 17/09/2016
ISSUED TO THE PETITIONER FROM THE COMMANDANT,
GC, CRPF PALLIPURAM.

Exhibit P14 TRUE COPY OF THE COMMUNICATION DATED 17/09/2016
ISSUED PETITIONER'S FATHER -IN-LAW BY THE
COMMANDANT, GC, CRPF, PALLIPURAM .

Exhibit P15 . TRUE COPY OF THE COMMUNICATION DATED
17/09/2016 ISSUED TO PETITIONER'S MOTHER-IN-LAW,
BY THE COMMANDANT, GC, CRPF, PALLIPURAM.

Exhibit P16 TRUE COPY OF THE ORDER DATED 27/07/2017 OF THE
3RD RESPONDENT .

Exhibit P17 TRUE COPY OF THE COMMUNICATION DATED 12/06/2019
ISSUED BY THE 4TH RESPONDENT TO THE PETITIONER .

Exhibit P18 TRUE COPY OF THE REPRESENTATION DATED 17/05/2019
PREFERRED BY PETITIONER BEFORE INSPECTOR GENERAL
OF POLICE, RANAGAREDDY .

Exhibit P19 TRUE COPY OF THE COMMUNICATION DATED 24/02/2021
FROM THE 5TH RESPONDENT TO THE PETITIONER.

RESPONDENT ANNEXURES

Annexure R5(a) A true copy of the letter No. P.III.2291/2016-
GC.Rry-Pen dated 30-12-2023

Exhibit R5(a) . A true copy of the letter No. P.III.2291-2016-
GC.Rry-Pen dated 30-12-2023

Exhibit R5(b) A true copy of the communications No. CRPF-16-
3092-FP-PA-18 dated 28-06-2024