



2025:DHC:9762-DB



* IN THE HIGH COURT OF DELHI AT NEW DELHI

Reserved on: 06.10.2025

Pronounced on: 10.11.2025

+ W.P.(C) 15257/2025 & CM APPL. 62536/2025
OMWATIPetitioner
Through: Mr. Anirudh Sharma and Mr.
Sudarshan Bhardwaj, Advs.

versus

UNION OF INDIA AND ORS.Respondents
Through: Mr. Ripudaman Bhardwaj,
CGSC with Mr. Kushagra
Kumar and Mr. Amit Kumar
Rana, Advs. for UOI

CORAM:
HON'BLE MR. JUSTICE NAVIN CHAWLA
HON'BLE MS. JUSTICE MADHU JAIN

J U D G M E N T

MADHU JAIN, J.

1. The petitioner has filed the present petition challenging the Order dated 27.05.2025 passed by the learned Central Administrative Tribunal, Principal Bench, New Delhi (hereinafter referred to as the 'Tribunal') in O.A. No. 1193/2023, titled ***Om Wati v. The Secretary, Govt. of India Ministry of Defence & Ors.***, filed by the petitioner herein, whereby the learned Tribunal dismissed the above mentioned O.A. and held as under:

“5.3 No relief for grant of the Ex-gratia payment can be granted on mere presumption. The relief prayed by the applicant is based on



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presumption that her husband may have met with an accident. Additionally the applicant is already in receipt of each of the retrial dues of the deceased employee i.e. 15.04.2006 itself when the employee was presumed to be declared dead.

5.4. In view of what has been recorded hereinabove, we do not find merits in the present OA, accordingly the same is dismissed.”

FACTS OF THE CASE

2. The facts giving rise to the present petition are that the petitioner is the widow of Late Sh. Jai Singh, who was formally employed as Vehicle Mechanic with the Vehicle Depot Workshop, EME, Delhi Cantt., under the Ministry of Defence. The deceased was appointed to the said post on 24.02.1998 and prior to the said posting had also served the Indian Army Jat Regiment from 25.06.1971 to 31.08.1987. The petitioner avers that her husband went missing on 15.04.1999 while proceeding to report for duty. It is the case of the petitioner that after conducting an extensive search and making due enquiries, the petitioner and her family found the cycle of her husband lying abandoned at the railway station.

3. The petitioner lodged an First Information Report (hereinafter referred to as ‘FIR’) at the Police Chowki, Gurgaon regarding the incident of disappearance of her husband on 15.04.1999. Subsequently, at the request of the petitioner, the said FIR was converted into a case of abduction/kidnapping under Section 365 of the Indian Penal Code, 1860 (hereinafter referred to as the ‘IPC’) on 27.04.1999.



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4. Family Pension from the Army was granted to the Petitioner by the Army Authorities on 04.08.2003, followed by the release of retirement gratuity by the Office of the Principal Controller of Defence Accounts (Pensions), Allahabad on 25.03.2004.

5. Thereafter, a Civil Suit, being Civil Suit No. 139/26.5.2006/5.11.2007 titled **Smt. Omwati & Anr. v. General Public & Anr.**, was filed before the Civil Judge (Jr. Div.), Gurgaon on 26.05.2006 by the petitioner, seeking declaration to the effect that her husband be presumed to be dead in law, and that the petitioner along with her son, namely Sh. Ravinder Singh, being the sole legal heirs of the deceased, are entitled to receive the Group Insurance amount. The learned Civil Judge allowed the aforesaid Civil Suit *vide* Order dated 14.05.2008, declaring the husband of the petitioner as dead in terms of Section 108 of the Indian Evidence Act, 1872 (hereinafter referred to as the 'IEA'). He was presumed to be dead as on 15.04.2006.

6. Consequently, all retiral benefits due to the deceased employee were extended to the petitioner. Death gratuity was released to the petitioner in 2007 and on 07.12.2009, Ordinary Family Pension was sanctioned by the Office of the Principal CDA (Pensions) Allahabad in favour of the petitioner.

7. It is the case of the petitioner that she came to know that her deceased husband was a member of Defence Civilians Medical Aid Fund (hereinafter, referred to as the 'DCMAF'). Considering herself entitled to *ex gratia* payment under the DCMAF scheme, the petitioner lodged an online complaint on 14.10.2022 through the DG EME portal, and on 02.11.2022, a reply was given to the petitioner



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stating that she should approach the appropriate authority. She thereafter submitted a detailed representation before the respondents on 05.11.2022. The said representation was not responded to by the respondents. The petitioner preferred the Impugned O.A., praying for the following reliefs:-

“(i) To direct the Respondents to consider the case of the applicant for grant of Defence Civilian Medical Aid Fund along with interest @ of 12% per annum from the date of his claim i.e., 15.04.1999 till date in light of the Rules provided for the Defence Civilian Medical Aid Fund issued by the Ministry of Defence.

(ii) Further direct the Respondent to dispose of the representation of the applicant by giving benefit of ex-gratia as scheme issued by the Ministry of Defence and as per the Rule, Regulations and By Laws, 2006 made for the purpose Defence Civilians Medical Aid, within the stipulated time frame as deems fit by this Hon'ble Tribunal, And/or

(iii) To pass any other order/s as deem fit and proper in the facts and circumstances of the case in the interest of justice;”

8. The learned Tribunal dismissed the O.A.. Aggrieved by the said Order, the present petition has been preferred.

SUBMISSIONS OF THE LEARNED COUNSEL FOR THE PETITIONER

9. The learned counsel for the petitioner submits that the petitioner came to know that her deceased husband was a member of DCMAF. She further submits that she contacted the office of DCMAF, however, her grievance was not redressed. Thereupon, the petitioner lodged an online complaint on 14.10.2022 through the DG EME



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portal. A reply dated 02.11.2022 was received by the petitioner directing her to approach the appropriate authority. Thereafter, on 05.11.2022, the petitioner submitted a detailed representation to the Commanding Officer, Vehicle Depot Workshop EME, Delhi Cantt for taking necessary steps but no action was taken, forcing her to file the proceedings before the learned Tribunal.

10. He submits that the petitioner's deceased husband was found missing and later declared dead when he left for his office on 15.04.1999 as his daily routine. He submits that this established that the mishap was caused to the deceased while on the way to report for duty and was hence attributable to service. He states that the situation of the deceased husband falls under the general definition of an accident thereby making the petitioner eligible to the *ex gratia* amount of Rs. 50,000/- under the DCMAF.

11. The learned counsel for the petitioner prays for an order directing the respondents to consider the case of the petitioner for grant of benefits under DCMAF along with interest @12% per annum from the date of accrual of the claim, that is, 15.04.1999 till the date of actual payment, in light of the rules framed for the DCMAF in accordance with the DCMAF Rules & Regulations and Bye-Laws, 2006 ('DCMAF Rules').

SUBMISSIONS OF THE LEARNED COUNSEL FOR THE RESPONDENTS

12. The learned counsel for respondents vehemently opposes the present petition. He submits that as per the DCMAF Rules, the



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DCMAF provides *ex gratia* grant to the family of deceased member in case of the following conditions:-

“BENEFITS FROM THE FUND

7. Every member, including those who rejoin the Fund after once ceasing to be its members, shall become entitled to the benefits of the Fund subject to the condition that Annual Members shall have to complete the membership of the Fund for one year commencing from the date on which the first subscription is paid. Payment of subscription with retrospective effect shall not entitle any member to the benefits of the Fund from a retrospective date. The benefits granted by the Fund are:

xxx

(d) EX-GRATIA GRANT TO THE FAMILIES: If any member, who has completed one year's membership of the Fund from the date of payment of first subscription dies of TB, Cancer or Leprosy, his/her family shall be given an ex-gratia grant of an amount as may be prescribed by the Managing Committee from time to time. Ex-gratia grant will also be applicable in cases of death of a member due to heart ailments provided that he/she had availed assistance from the Fund for heart ailments earlier.

xxx

g) EX-GRATIA GRANT IN CASE A MEMBER PATIENT DIES IN AN ACCIDENT:

If any Full Service Member of the Fund or Annual Member who has remained member of the Fund consecutively for ten years dies in an accident, his/her family shall be given an Ex-gratia grant as may be prescribed by the Managing Committee from time to time.

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PART-IV

Existing Benefits of the Fund

xxx

(G) EX-GRATIA GRANT:

i) Rs. 20,000/- to the family (if member patient dies due to TB, Cancer & Leprosy. Rs.



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20,000/- will also be paid to the family as *ex-gratia* grant if the member patient dies to heart ailment, provided he had obtained assistance for heart ailment earlier.

ii) *Rs.50,000/- to the family of the member patient if he/she dies due to an accident.

(*This benefit is available to only Full Service Members of the Fund and those Annual members who have remained members of the Fund consecutively for ten years on the date of their death)."

13. He submits that the petitioner cannot confirm that her deceased husband died of an accident and that only on a presumption basis *ex gratia* payment cannot be made.

14. He states that in the present case, as none of the conditions stipulated in the DCMAF Rules stand satisfied, the petitioner cannot be granted the relief being prayed for.

15. He highlights that the petitioner is already in receipt of all retrieval dues of the deceased employee and that the present petition should be dismissed, being devoid of merit.

ANALYSIS AND FINDINGS

16. We have considered the submissions made by the learned counsels for the parties and have perused the record.

17. The issue that arises for consideration is whether the deceased employee satisfies the conditions prescribed under the DCMAF Rules for grant of *ex gratia* relief.

18. The DCMAF Rules are manifest in their stipulation. Statutory schemes and welfare funds operate within the parameters laid down by their governing rules. They do not provide for *ex gratia* relief based on a general presumption of death. Rather, they mandate that death



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must either be attributable to specified medical conditions or must have occurred as a result of an accident. Under the DCMAR Rules, a sum of Rs.50,000/- is payable in the event of death in an accident. No relief by way of *ex gratia* payment can be granted on the basis of mere presumption.

19. The presumption under Section 108 IEA is a presumption of fact regarding death and not of the specific circumstances surrounding the death. We quote from the Section as below:

“108. Burden of proving that a person is alive who has not been heard of for seven years.

[Provided that when] the question is whether a man is alive or dead, it is proved that he has not been heard of for seven years by those who would naturally have heard of him if had been alive, the burden of proving that he is alive is [shifted to] the person who affirms it.”

20. In the present case, admittedly, the petitioner has only been able to establish that the deceased went missing on 15.04.1999 and was presumed to be dead in terms of the said Section 108 IEA.

21. Although an FIR was lodged and the deceased was presumed to be dead upon expiry of seven years, the presumption of “death in an accident” lacks any factual or legal basis. The petitioner has not been able to establish that the deceased met with an accident. Since the petitioner's case does not satisfy either of the two conditions prescribed under the DCMAF Rules, she cannot be granted *ex gratia* relief. The respondents are bound by the eligibility criteria prescribed in the DCMAF Rules. To grant *ex gratia* relief in the absence of compliance with the DCMAF Rules would be beyond the scope of the statutory framework.



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22. Accordingly, the petitioner's claim to grant *ex gratia* relief cannot be sustained and the same is hereby rejected.

23. In light of the above, we find no infirmity in the Impugned Order passed by the learned Tribunal. The writ petition, being devoid of merit, stands dismissed.

24. The pending application(s), if any, stand disposed of as infructuous.

25. There shall be no order as to costs.

MADHU JAIN, J.

NAVIN CHAWLA, J.

NOVEMBER 10, 2025/Av