

GAHC010051762021



2026:GAU-AS:7151

**THE GAUHATI HIGH COURT**  
**(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)**

**PRINCIPAL SEAT AT GUWAHATI**

**WRIT PETITION (CIVIL) No. 2100/2021**

Pinky Nath .....Petitioner.

-Versus-

Union of India & 4 Others  
.....Respondents.

**BEFORE**

**HON'BLE MR. JUSTICE RAJESH MAZUMDAR**

Advocate for the Petitioner : MR. N C DAS, Sr. Advocate

MR. A DAS,

MS. M DEVI,

MR. A DEY

Advocate for the Respondent : ASSTT.S.G.I.,

MR. S P CHOUDHURY

Date on which judgment was reserved: **25.02.2026**

Date of pronouncement of judgment : **22.05.2026**

Whether the pronouncement is of the **NA**  
operative part of the judgment?

Whether the full judgment has been : **Yes**  
pronounced?

### **JUDGMENT AND ORDER (CAV)**

Heard Mr. N.C Das, learned Senior counsel assisted by Ms. J.Baishya, learned counsel appearing for the petitioner. Also heard Mr. S.P. Choudhury, learned CGC appearing for the respondent department.

2. The petitioner in this present case is the wife of late Gautam Nath, who had served the Central Reserve Police Force as a Constable from the year 1999 onwards. The husband of the petitioner was transferred to the Group Centre, Central Reserve Police Force, Silchar, Assam, from the 101 Rapid Action Force, and he joined on 15.10.2014. The husband of the petitioner was discharging his duty as a salesman in the Group Centre CRPF Silchar, and with the permission of the competent authority, the husband of the petitioner was staying outside the CRPF campus with his family, as there was no official quarter available within the campus. On 23.08.2015, the husband of the petitioner, while discharging his duty as a salesman at Group Centre CRPF, complained of chest pain, and in the

evening, he left the campus for his home. While on the way home, the husband of the petitioner suffered aggravated discomfort, which required his immediate hospitalisation, followed by treatment at the Guwahati Neurology Research Centre (GNRC) and further at the Composite Hospitals of the CRPF and ultimately at the Silchar Medical College Hospital. The husband of the petitioner was declared to be suffering from right-side hemiplegia due to intracerebral haemorrhage and was totally bedridden.

**3.** A Departmental Rehabilitation Board, hereinafter referred to as the DRB for the sake of brevity, was constituted by the Deputy Inspector General (Medical), Composite Hospital, Silchar and the husband of the petitioner was produced before the DRB on 18.01.2017 and 19.01.2017. The DRB, taking into consideration the prolonged treatment and the absence of any improvement in his health, recommended the grant of disability pension to the petitioner. The Medical Invalidation Board constituted thereafter declared the husband of the petitioner to be unfit for further service with 87% disability, and accordingly, he was declared unfit for service from 1.09.2016.

**4.** The Deputy Inspector General, Group Centre, Central Reserve Police Force, Dayapur, Silchar, thereafter issued a notice on 24.04.2017, informing the petitioner that he would retire with pension, one month after the date of the receipt of the notice. The notice was issued in exercise of powers under Rule 38 of the Central Civil Services (Pension) Rules, read with the Medical Manual Chapter VIII. The petitioner's husband was informed that if he wished to make

any appeal against the notice, he could do so within one month, along with supporting evidence. The incumbent was informed that on receipt of an appeal, if any, a medical panel would be constituted to re-examine whether there is any ground to allow the appeal or not. The incumbent was also required to submit a necessary fitness certificate from a civil surgeon to the effect that the civil surgeon was aware that the applicant had been declared unfit for service. It was further informed that in the event of non-receipt of any appeal from the incumbent within a period of one month, necessary orders declaring his retirement from service would be issued.

**5.** It is the case of the petitioner that the husband of the petitioner had accepted the recommendation of the medical board and had prayed for the grant of disability pension. Accordingly, by the order dated 24.05.2017, the Deputy Inspector General of Police, Group Centre, CRPF, Silchar, had allowed the husband of the petitioner to be discharged from the unit of the Group Centre on being declared invalid in terms of Rule 38 of the CCS (Pension) Rules, 1972, read with Standing Order no. 51 of 2001, with effect from 24.05.2017, afternoon. The order also stated that the disability of the incumbent arose out of official duty. As such, he would be entitled to disability pension and other benefits in terms of Rule 38 of the CCS Pension Rule, 1972, as well as other orders issued from time to time. The husband of the petitioner thereafter expired on 25.09.2017.

**6.** The petitioner had thereafter preferred representation to the Inspector

General of Police, Northeast Sector, Central Reserve Police Force, Shillong, Meghalaya, where she had informed the respondent that the husband of the petitioner expired on 25.09.2017 due to prolonged sickness, which he suffered while he was in service. The petitioner alleged that the legitimate dues which arose from the disability, which every force personnel was entitled to in the event of sustaining injuries leading to invalidation or death attributable to service, had not been paid to the petitioner. The petitioner has submitted that after his invalidation from service, the husband of the petitioner had been continuing his treatment for another few months and had later expired. The petitioner had submitted that she was receiving a family pension, which was a meagre amount. The petitioner had requested the Inspector General, NES, CRPF, to intervene in the matter and take appropriate action to enable her to get the legitimate financial assistance in the form of disability ex gratia.

**7.** By the letter dated 01.02.2019, the Deputy Inspector General of Police, Group Centre, CRPF, informed the petitioner that a Board of Officers had been constituted to assess the gravity of the ailment of the husband of the petitioner. The letter informed the petitioner that, in accordance with the office memorandum of the Directorate of CRPF in New Delhi, by the letter no. dated 04.08.2017, the case of grant of ex gratia to the husband of the petitioner had been forwarded to the Directorate of CRPF, New Delhi, through the Inspector General of Police, North East Sector, Shillong, vide letters dated 8.12.2017, 9.01.2018 and 14.07.2018 of the office of the Deputy Inspector General of

Police, Silchar. However, the Directorate of CRPF, by the letter dated 9.02.2018, returned the same with certain objections.

**8.** The letter informed the petitioner that her husband was not on active duty at the time of his illness. Apart from that, it was informed that he was performing duty as a cooperative shop salesman, and that his ailment did not occur either in the course of performance of duty or because of facing any adverse situation while on duty. The petitioner was informed that the cause of the ailment in respect of her husband was not covered by the provisions of the Government of India, Ministry of Home Affairs, Office Memorandum No. 27011/64/2009 – R&W, dated 21.04.2011, and the letter of the Directorate of CRPF vide No. P. TIN /Directions- 2017 -Admin-I (D.A-Two) dated 04.08.2017. The case regarding approval of ex gratia compensation to the petitioner on the grounds of disability was declared to be closed.

Even thereafter, the petitioner had referred subsequent representations, and since no reply was received, the petitioner has preferred this present petition. The petitioner has prayed for interference with the order dated 01.02.2019 issued by the DIG, GC, CRPF, Silchar and for a writ of Mandamus to be issued commanding the respondents to consider and dispose of the representation dated 25.03.2019 in accordance with the law.

**9.** The respondents have filed an affidavit in opposition through the DIGP, Group Centre, CRPF, wherein it has been contended that the husband of the petitioner

was allowed an outliving permission to live with his family outside the Group Centre premises due to the non-availability of government quarters within the Group Centre campus. The respondents admitted that the husband of the petitioner was admitted to the Valley Hospital at Silchar with a complaint of 'right side hemiplegia due to intracerebral haemorrhage' along with a complaint of 'basal ganglia haematoma'. The intimation regarding the hospitalisation of the husband of the petitioner was received in the Group Centre, CRPF, Silchar on 24.08.2015, and it was only then that the Group Centre, CRPF, came to know that the individual was admitted to the hospital due to his illness. The husband of the petitioner was further referred to Composite Hospital, CRPF, Guwahati, on 24.08.2015 for further treatment and management. The husband of the petitioner had undergone a surgical procedure on 25.08.2015 at GNRC Hospital, Guwahati and was under treatment there from 25.08.2015 to 27.11.2015. On being discharged from the GNRC Hospital, Guwahati, the husband of the petitioner remained admitted at the Composite Hospital, CRPF, Guwahati from 28.11.2015 to 27.01.2016 and intermittently up to 08.09.2016. The respondent also admitted that the husband of the petitioner had appeared before the D.R.B on 18.01.2017 and 19.01.2017, and that the board had suggested that he should be produced before a Medical Invalidation Board. All possible medical facilities and treatment had already been provided to the individual, but his condition had not [improved](#). On 27.03.2017, the individual appeared before the Medical Invalidation Board, and the board opined that the individual should be

invalidated from service with effect from 01.09.2016 and fixed his disability at 87% due to left basal ganglia/haematoma with right hemiplegia and speech defect. The disability percentage assessed for the individual by the Board of Medical Officers was confirmed by the Director (Medical) DTe. Genl. vide letter dated 11.04.2017. Accordingly, the individual was invalidated from service on 24.05.2017 by the order dated 24.05.2017 itself. The respondent acknowledged information regarding the death of the individual on 25.09.2017.

**10.** The respondents contend that, as per the office memorandum dated 21.04.2011, personnel who are disabled in the performance of their bona fide official duties under various circumstances and are boarded out on account of disability, attributable to or aggravated in service, are entitled to ex gratia compensation. In this particular case, the individual had suffered a haematoma during the night hours of 23.08.2015 at his house while living with his family outside the Group Centre, CRPF. Therefore, it cannot be said that the husband of the petitioner suffered the illness while on duty. According to the respondents, the disease or ailment that affected the individual and its development cannot be considered to be rising out of exposure, stress or climatic conditions since the individual was serving in a peace area in a Group Centre and performing the duties of a salesman in a cooperative shop of the Group Centre. The respondent contends that there is no causal connection between the illness and the death of the individual.

In this case, the respondent further contends that it cannot be confirmed

that the individual had contracted the disease because of continued exposure to a hostile work environment, subjected to extreme weather conditions, or as an occupational hazard. It is submitted in the affidavit that the proposal of the individual for the grant of ex gratia lump sum compensation to the next of his kin was not considered by the competent authorities on the aforesaid grounds.

The respondents further contend that the husband of the petitioner expired four months after being invalidated out of service from the department.

The respondents accordingly prayed for dismissal of the writ petition.

**11.** The petitioner has filed an affidavit in reply to the affidavit-in-opposition, where it has been contended that the husband of the petitioner had suffered a stroke while he was discharging his duty as a salesman in the Group Centre, canteen, CRPF, Silchar. He had to be hospitalized immediately on his return from duty to his home. The petitioner has contended that the husband of the petitioner had not availed any kind of leave at the time when he suffered from the intracerebral haemorrhage, but was on duty. The reply further contains that the disability suffered by the husband of the petitioner arose out of official duty and she has been denied the legitimate dues in the form of disability ex gratia compensation to which every person who is boarded out of service on account of disability, attributable or aggravated, while in service is entitled. Reference has been made to the noting of the Deputy Inspector General of Police, Group Centre, CRPF, on the invalidation order of the petitioner, where it was specifically

held that the petitioner had been boarded out due to a disability arising out of his service.

**12.** The submissions made by the learned counsel for the parties have been duly considered, and the office memorandums that have been placed before the Court during the hearing of the matter have also been considered.

**13.** The facts not in dispute in this case are that the husband of the petitioner was serving in the Central Reserve Police Force in the rank of a constable when, on 23.08.2015, he suffered an intracerebral haemorrhage arising out of hypertension. At that relevant point of time, the husband of the petitioner was discharging duties as a salesman at the Group Centre canteen, CRPF, GC, Silchar and a haemorrhage took place after he had closed the canteen and was moving towards his residence, which was outside the premises of the Group Centre. The husband of the petitioner was staying at a location outside the Group Centre premises along with his family with due permission of the competent Authority, since government quarters were not available within the Group Centre premises. It is also an admitted position that, having suffered the intracerebral haemorrhage, the husband of the petitioner remained under treatment till the time when he was declared unfit for service.

**14.** It is not in dispute that the husband of the petitioner had been discharged from the services of the Central Reserve Police Force by the order dated 24.05.2017 with effect from the same [date](#). It is also not in dispute that the

order discharging the husband of the petitioner for his services had quoted that the disability of the husband of the petitioner arose out of official duties and, as such, he would be entitled to the disability pension and other benefits in terms of Rule 38 of the CCS Pension Rules.

**15.** The bone of contention between the parties to this petition is whether the ailment and disease suffered by the husband of the petitioner could be said to be one that had arisen in connection with his duties so as to entitle him to the benefit of an ex-gratia amount as is prevalent in the Central Reserve Police Force.

While the petitioner contends that intracerebral haemorrhage/stroke was the consequence of the hypertension which the petitioner had suffered during the course of his service, the respondents contend that, as the haemorrhage was suffered when he was proceeding towards his home, the same cannot be said to have occurred during service. The respondent also contends that the petitioner, at the relevant point of time, having been posted at a peace location, it cannot be said that he has suffered from any stress which could have led to the petitioner to suffer from a cerebral stroke.

**16.** The High Court of Delhi in the case of **Ranju Devi Vs. Union of India & Ors.** reported in **2019 Supreme(Del) 712** had held as follows:

*“6. In the above scenario, the COI came to the conclusion that Rakesh Kumar should be treated as being on duty as the accident occurred when he was*

*returning for duty from his leave station at public expense. Accordingly the COI recommended that the Petitioner's wife should be granted extraordinary family pension in addition to the other pensionary/financial benefits applicable to Government servants. However when the proposal was sent to the Department of Pension & Pensioners' Welfare, it was rejected on the ground that the death was not attributable to "active service". In other words the view taken was that the Petitioner had met with the fatal accident while he was on "casual leave" and not on "actual/active duty".*

*7. The legal position in this regard is no longer res integra. In Madan Singh Shekhawat v. Union of India, (1999) AIR SC 3378 the Supreme Court was considering the grant of disability pension to a Sawar/Horse Rider attached to the Indian Army who met with an accident while alighting from a train in Rajasthan. The Appellant had been travelling from his station in Jodhpur to his home station on authorized Casual Leave granted to him. The Supreme Court liberally interpreted the words "at public expense" and held as under:*

*"16. 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 undertaking the journey would be unauthorised."*

.....

*9. In the present case also, the COI has clearly found that the husband of the Petitioner met with the fatal accident while returning from his village to join duty at Jammu. Consequently, it cannot be said that he was not "on duty". Even this expression has been liberally interpreted by the other Courts. In Union of India and another v. Ex-Naik Surendra Pandey, (2015) 13 SCC 625 the question was regarding the grant of disability pension to a Sepoy in the Indian Army's Air Defence Corps who had been posted in the field area in J & K and was authorised to go on annual leave for a period of two months."*

The case involved prayers for an extraordinary family pension and Ex gratia by the widow of a deceased Assistant Sub-Inspector of the CRPF, who had died in a road traffic accident while on casual leave for one day.

**17.** The High Court of Delhi in **Venkatesh Vs. Union of India** reported in **AIR Online 2018 Del 2588** had again held as follows:

*“14. The stand of the Respondents is that this expression ‘active duty’ has to be read as administrative genres with the circumstances mentioned in para 4.17B i.e. a duty which could envisage “field firings, accidental firings, explosion of mines or other explosive devices”. In other words, the Respondents want to narrow down the expression “accidents” to only those accidents of the aforementioned kind and not just about any accident.*

*15. There is a difficulty in accepting the submission on behalf of the Respondents. A member of the CRPF does not cease to be on active duty only because he is not actually in the line of firing or dealing with mines or other explosive devices. A member of the CRPF continues to remain on duty in whichever post he is - whether it is an anti-insurgency station posting or a peace posting. He is expected to be ready to perform his duty “to restore and preserve order in any local area in the event of any disturbance there”. To elaborate, even in a peace station when members of the CRPF are engaged in an activity which is formed part of their assigned duties and suffered an accident, that accident cannot be characterised as not being incurred while on ‘active duty’. It is the preparedness to participate in all activities to restore and preserve order in any local area that is determinative of whether a person is on ‘active duty’ or not.*

*....*

*17. Another situation could be that while an officer is in his dormitory or barrack or quarters and there is an accident which occurs and reduces his medical category from Shape-I to Shape-II, can it be said that it was an accident while he was not on ‘active duty’? In the considered view of the*

*Court, the answer has to be in the negative. An officer continues to remain on 'active duty' even in such a situation and it will not be justified in characterizing such an accident as having been incurred while not on activity."*

**18. In *Prahlad Mohanty vs Union of India and others*, reported in 2016 0 Supreme(Ori) 677, the High Court of Orissa has held as follows:**

*26. Now, advertent to the present case, it is the case of the petitioner, while entering into the service in CRPF, was not suffering from psychosis/psychotic disorder and his ailment only started in the year 2002. As it appears, the disease psychosis/psychotic disorder only was diagnosed as per treatment records but for Schizophrenia, there is no treatment records produced by the opposite parties except a list of disease with dates for which the petitioner got treated. So, the disease of Psychosis/psychotic disorder is considered as petitioner was suffering. The opposite parties have taken a plea that the disease suffered by the petitioner is not attributable to the Government service. As there is no material or document placed by the opposite party to show that the petitioner was suffering from Psychoneurosis or the psychosis disorder or Schizophrenia at the time of entry into service, it must be presumed that he had entered into service as a normal man.*

*31. In the instant case, when there is no report of the Medical Board produced by the opposite parties, there is nothing to show that the petitioner has entered into service being suffered from any disease as recorded by the Medical Board which could have been revealed at the time*

*of entering into service, it must be observed that the disablement of the petitioner has been attributable to or aggravated by Government service in CRPF.*

*32. As per clause-ii of Sub-Rule-1(a) of Rule-3-A of EOP Rules, the disablement is accepted due to Government service if it is found that the disease existed before or arose during Government service and has been and remains aggravated thereby. In the instant case, as per discussion made herein, it is made clear that the petitioner has entered into service as a normal man, but in the year 2002, he suffered from psychosis/psychotic disorder which arose during the Government service. Thus, the disablement of the petitioner arose during the Government service, i.e., after entering into service. Not only this but also, such disease has remained aggravated for which he was allowed invalidate pension. Thus, the pre-conditions as required to accept the disablement of the petitioner in terms of clause-ii of Sub-Rule-1(a) of Rule-3-A of EOP Rules became satisfied. In toto, the disablement of the petitioner has been proved to be attributable to or aggravated by Government service in CRPF as per clause-(i) and his disablement shall be also accepted as due to Government service as per clause-ii of Sub-Rule-1(a) of Rule-3-A. Point No.1 is answered accordingly.*

**19. In *Murti Devi versus Union of India, WP(C) no 10744/2017*, disposed of on 20.9.2024, the High Court of Delhi has held as follows:**

*16. Having considered the factual matrix, submissions of the parties and perused the record, we find that the only issue arising before this Court for consideration is as to whether the cause of death of late HC/RO Surender*

*Singh, due to 'Cerebral Malaria' and 'Acute Viral Hepatitis with Fulminant Hepatic Failure', could be treated as being attributable to service conditions. In this regard, we may begin by referring to clause (g) of Standing Order No. 51/2001 issued by Directorate General, Pay and Accounts Office, CRPF, New Delhi No.P.3/I-HC(Pen)-PAO dated 07.09.2001, which deals with grant of extraordinary pension.*

*The relevant extract of the said Standing Order reads as under:-*

*“DIRECTORATE GENERAL, PAY AND ACCOUNTS OFFICE, CRPF, NEW DELHI-18 No.P.3/I-HC(Pen)-PAO Dated, the 7th Sept. 2001. STANDING ORDER NO. 51/2001. Subject:- PENSION AND TIMELY PAYMENT OF PENSIONARY BENEFITS. A number of instructions have, been issued from time to time on the subject mentioned above and various changes in the admissibility of pensionary benefits to Govt. servants have been effected by the Govt. in implementing the recommendations of the Vth Central Pay Commission. A need has, therefore, been felt to consolidate these instructions into a single order to facilitate easy reference in application and finalisation of pension cases. CLASSES OF PENSION The CRPF is governed by CCS (Pension) Rules, 1972. The following types of pension are being granted to the personnel depending on the cases of the circumstances according to the instructions/rules on the subject:-*

*xxxxx*

*(g)L.P.A/E.O.F.P. Extra Ordinary Pension/Liberalised pension Awards under, CCS(EOP) Rules read with DOP & PW OM No.45/22/97-P&PW(C) dated 3/2/2000, are eligible for the following categories:-*

*xxxxx CATEGORY "E" Death or disability arising as a result of*

*(a) attack by or during action against extremists anti-social element. etc. and*

*(b) enemy action in international war or border skirmishes and warlike*

*situations, including cases which are attributable to (i) extremists acts, exploding mines etc. while on way to an operational area; (ii) kidnapping by extremists and (iii) ..... inoculation as a part of training exercises with live ammunition.*

*In the event of death, the family pension benefits are more liberal than those admissible under normal circumstances. The requirement for grant of extraordinary pension is that the disablement or death should have occurred while 'On duty' and the cause has to be accepted as a due to service or aggravated by service. A person subject to disciplinary code of the Central Armed Police Bns. is treated 'On duty'.*

*(i) While performing an official task failure to do, which constitutes an offence:*

*(ii) While moving from one place of duty to another place of duty:*

*(iii) During the period of participation in organised or permitted recreations by service authorities:*

*(iv) While proceeding from duty station to leave station or returning there from at public expenses viz. on railway warrants, cash T.A., in Government Transport:*

*(v) While journeying from one's quarter to and back from the appointed place of duty under organised arrangements or private conveyance if service transport is to be given but is not made available:*

*(vi) While participating in local, national or international sports tournaments as a member of a service team:*

*(vii) While participating in mountaineering, gliding expeditions organised by service authorities with approval of Government. An accident which occurs while a person is strictly not on duty but which is attributable to the risk of service (eg. a person killed or injured by someone by reasons of his belonging to an Armed Force Battalion) is also treated as 'On duty'."*

17. What emerges from a perusal of clause (g) of the aforesaid Standing Order is that as per terms of category 'E', in order to qualify for grant of extraordinary pension, it is required to be shown that the death of the member of the Force had occurred while 'on duty' and that the cause of the death had been accepted as being 'due to service' or being 'aggravated by service'. .....

25. In view of the above, we have no hesitation in holding that the death of petitioner's late husband falls under the category of 'death due to accident in course of performance of duties' i.e., while he was posted in Bokaro, a Malaria infested area. Taking into account that even as per the medical certificate issued by the Safdarjung hospital, he was found to be suffering from Cerebral Malaria infection, it cannot be denied that he had contracted the disease while he was serving with the battalion itself i.e. before his period of leave began on 14.11.2006. The petitioner, in our view, is therefore, correct in contending that in these circumstances, she is entitled for extraordinary pension.

26. Now we may proceed to deal with the petitioner's prayer for grant of ex-gratia compensation. For this purpose, we may refer to the decision of this Court in Sangita Tomar vs. Union of India (supra), where it was held as under:-

“21. Accordingly, we find no hesitation to hold that death of petitioner's husband happened during the official course of his duties and, therefore, petitioner being the NoK of deceased Ram Kumar Singh is entitled to grant of ex gratia compensation. Consequently, order dated 19-10-2019 passed by the respondent relying upon DoP OM No. 45/55/97-P&PW(C) dated 11-9-1998; amended vide OM No. 38-37- 2016-P&PW(A)(i) dated 4-8-2016, for rejection of grant of ex gratia pension to petitioner,

*is misplaced, as the case of deceased falls under the category of "death due to accident in course of performance of duties". Hence, petitioner is entitled to grant of ex gratia lump sum compensation of Rs 25,00,000 in terms of Clause 12.1 of OM No. 38- 37-2016-P&PW(A)(i) dated 4-8-2016."*

*27. From the aforesaid, it is clear that once the death of a member of Force is found to be during the course of his duties, his widow and children are entitled to grant of ex-gratia compensation. In the present case, in view of our conclusion hereinabove that the death of the petitioner's husband had, as found by the COI, to be treated as being during duty and for the reasons attributable to service. The respondents' order rejecting the petitioner's claim of ex-gratia compensation is also, therefore, liable to be set aside.*

*28. For the aforesaid reasons, the writ petition is allowed by setting aside the impugned order dated 25.09.2017, whereby the petitioner's representation for grant of extraordinary family pension as also for ex-gratia compensation, was rejected.*

**20. Again, in Ram Devi versus Union of India, reported in 2015 Supreme (Del) 680,** the High Court of Delhi has held:

*14. The argument of the respondents is thus plain and simple. There must be a causal connection between the death and the performance of duties, which as per the respondents must be while actually on the job i.e. at the work place. Further, the death has to be accidental, attributable to violence by terrorists and anti-social elements, during a border skirmish or directly attributable to a natural disaster or an extreme weather condition at specified high altitude areas or inaccessible border posts.*

*15. The argument of the petitioner is also plain and simple. That active duty*

*as defined by clause (a) of sub-Section 1 of Section 2 of the BSF Act, 1968 makes it clear that when a member of a Force is attached to or forms part of a Unit of the Force which is operating at a picket or engaged on patrol or guard duty along the borders of India he would be treated as on active duty. It is not the sine qua non of being on active duty that the person should be actually working as a figure of speech. The Office Memorandums dated September 11, 1998 and September 02, 2008 provide for payment of ex-gratia compensation if a person dies on active duty.*

*16. The Office Memorandum dated September 11, 1998 as amended by the Office Memorandum dated September 02, 2008 entitles the family members of deceased Government servants to the special privileges of an ex-gratia lump sum payment, apart from the usual statutory benefits in case where the death of the Government servant occurs in circumstances enumerated in the two Office Memorandums. Whereas the Office Memorandum dated September 11, 1998 requires ex-gratia compensation to be paid if death of the Government servant occurs in the three circumstances noted by us in paragraph 13 above, the memorandum dated September 02, 2008, while enhancing the ex-gratia amounts where death occurred in the three circumstances contemplated by the Office Memorandum dated September 11, 1998, added a fourth circumstance; being death occurring while on duty in specified high altitude, inaccessible border posts on account of natural disasters or extreme weather conditions.*

*17. A perusal of the two Office Memorandums would show that bravery is not the value recognized by the two Office Memorandums. It is the value of sacrifice which is recognized by the two Office Memorandums.*

18. *Psychological injuries can be as debilitating as physical ones. Trauma stress disorders are not intentionally caused by enemy action, but where a person is deployed for patrolling duty at a border and especially where the relations with the neighbouring country are not very cordial (and we take judicial notice of the fact that though sporadic but tension flares up in the Indo-Pak Line of Control 15 to 20 times each year) the person would be under psychological stress while on actual patrol duty and adrenaline levels would be bound to be high. Stress, be it mental or physical, affects the body metabolism and puts a strain on the heart. A human body is not a switch. And unlike a switch which at a mere press stops the onward flow of current, the human body takes time to switch over when a circumstance changes. Thus, a person on active duty, when returns to the barrack after patrolling along the Line of Control would continue to be stressed for sometime before the adrenaline levels fall and the body is at even metabolism.*

19. *The two Office Memorandums are the beneficial face of the executive policy and therefore must receive a liberal interpretation.*

20. *Blending the statutory definition of active duty in the potion of the two Office Memorandums, in harmony with the rule of interpretation of beneficial legislation, it can be said that the death of a force personnel due to heart attack suffered just after performing actual duty would be a case of an accidental death in the course of performance of duties. An accident would be an unfortunate incident that happens unexpectedly and unfortunately; an event that happens by chance or that is without apparent or deliberate cause; a circumstance or attribute that is not essential to the nature of something; a misfortune.*

*21. The late husband of the petitioner died on September 16, 2010 within 15 minutes of completing ambush-cum-patrolling duty at the Border Outpost Jagmal at the Line of Control in Kutch. He may have had a liver problem which may have contributed to the heart attack suffered by him but no less could be the contribution of the stress occasioned while performing ambush-cum-patrolling duty. The late husband of the petitioner was on active duty and the concept of accident envisaged by the two Office Memorandums dated September 11, 1998 and September 02, 2008 has to be given a liberal interpretation keeping in view that the two Office Memorandums embody a beneficial executive policy. The liberal interpretation of accident would be as per para 20 above. Thus we hold that the petitioner would be entitled to the ex-gratia lump sum compensation payable under the Office Memorandum dated September 11, 1998 as modified by the Office Memorandum dated September 02, 2008.*

**21.** The undisputed facts in the present case are that the husband of the petitioner had reported for duty at the Group Center, Silchar, on being transferred from the Rapid Action Force. He had been detailed to duty at the CRPF Canteen, and he had been granted "out-living" permission, i.e. to stay with his family outside the Group Center premises due to the dearth of quarters within the campus. He had suffered a cerebral stroke while returning to his residence after closing the canteen. His treatment was carried out with the assistance of the Force itself, and he met his demise from complications arising from his medical condition, albeit after he had been boarded out of service. There is no allegation, as there cannot be, that the husband of the petitioner

had brought the misfortune of the disability upon himself or that he was on unauthorised leave during that time. He was staying beyond the Group Center premises with due permission.

**22.** In such circumstances, this Court finds that the plea of the respondents that he was not on active duty at the time when he suffered the medical condition is a vain attempt to deny payment of an ex gratia award. In the considered opinion of this Court, the duty of a person serving the CRPF cannot be restricted to his office hours. As already observed by the other High Courts and the Apex Court in the judgments cited above, the expression "on duty" is required to be given a liberal interpretation. The fact that the husband of the petitioner was serving in the canteen at a peace location would be of no relevance in the present case, more so when it is an admitted case that the petitioner had served in the Rapid Action Force immediately prior to his deployment to Silchar. The respondents, by the order dated 24-05-2017, by which the husband of the petitioner had been discharged from service, had, in no uncertain terms, declared that the disability of the incumbent arose out of government duty. The husband of the petitioner was found to be entitled to disability pension as per the provisions of the Central Civil Services (Pension) Rules. It is not the case of the respondents that there is any medical finding by a competent medical Board to suggest that the disease which the husband of the petitioner had suffered could not have been detected at the time of his entry into service. In the

absence of any such assertion and in the absence of any reason recorded by a competent medical board, the disability must be presumed to have arisen, to be attributable and to have been aggravated due to service conditions. This Court finds useful reference in this regard in the case of **Union of India vs Rajbir Singh** reported in **(2015) 12 SCC 264**, where the Apex Court had held as follows:

*15. The legal position as stated in [Dharamvir Singh's](#) case (supra) is, in our opinion, in tune with the Pension Regulations, the Entitlement Rules and the Guidelines issued to the Medical Officers. The essence of the rules, as seen earlier, is that a member of the armed forces is presumed to be in sound physical and mental condition at the time of his entry into service if there is no note or record to the contrary made at the time of such entry. More importantly, in the event of his subsequent discharge from service on medical ground, any deterioration in his health is presumed to be due to military service. This necessarily implies that no sooner a member of the force is discharged on medical ground his entitlement to claim disability pension will arise unless of course the employer is in a position to rebut the presumption that the disability which he suffered was neither attributable to nor aggravated by military service. From Rule 14(b) of the Entitlement Rules it is further clear that if the medical opinion were to hold that the disease suffered by the member of the armed forces could not have been detected prior to acceptance for service, the Medical Board must state the reasons for saying so. Last but not the least, is the fact that the provision for payment of disability pension is a beneficial provision which ought to be interpreted liberally so as to benefit those who have been sent home with a disability at times, even before they completed*

*their tenure in the armed forces. There may indeed be cases where the disease was wholly unrelated to military service, but, in order that denial of disability pension can be justified on that ground, it must be affirmatively proved that the disease had nothing to do with such service. The burden to establish such a disconnect would lie heavily upon the employer, for otherwise the rules raise a presumption that the deterioration in the health of the member of the service is on account of military service or aggravated by it. A soldier cannot be asked to prove that the disease was contracted by him on account of military service or was aggravated by the same. The very fact that he was upon proper physical and other tests found fit to serve in the army should rise as indeed the rules do provide for a presumption that he was disease-free at the time of his entry into service. That presumption continues till it is proved by the employer that the disease was neither attributable to nor aggravated by military service. For the employer to say so, the least that is required is a statement of reasons supporting that view. That we feel is the true essence of the rules which ought to be kept in view all the time while dealing with cases of disability pension.*

**23.** The Schedule to the CCS (Extraordinary Pension) Rules classified Hypertension as a disease that can be contracted by service. It is therefore further reinforced that the disability suffered by the husband of the petitioner arose from a disease that was affected by the conditions of service of the deceased employee.

**24.** The only grounds for rejection of the prayers of the petitioner herein are that the husband of the petitioner was not on "active duty" at the time when he suffered the ailment and that the ailment did not occur either in the course of

performance of duty or while facing adverse situations on duty. In view of the findings of the Court in the foregoing paragraphs, both the reasons given are found to be vitiated, deserving the interference of this Court. The respondents could not rebut the assertion of the petitioner that the persons who had suffered due to accidents while proceeding on leave were afforded the ex gratia compensation. The petitioner had supported her claim by producing the relevant documents showing such payment, and the respondents did not even dispute such an assertion.

**25.** In conclusion, this writ petition succeeds. The order no. P.III-1/2017-19-Admin-I (Disability) dated 09.02.2018 issued by the Director General, CRPF, and the letter no. P.III-53/2017-Pension-Group Center dated 01.02.2019 issued by the DIGP, GC CRPF Silchar, are set aside and quashed.

**26.** The Respondents, more specifically the respondents no. 2, 3 and 4, shall process the claim of the petitioner for the grant of ex gratia compensation without reference to the grounds for rejecting her claim earlier and shall ensure payment of her entitlement of ex gratia payment within a period of 3 months from the date of receipt of a certified copy of this order.

**27.** Writ Petition is disposed of.

**JUDGE**

**Comparing Assistant**