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WP-37546-2024

IN THE HIGH COURT OF MADHYA PRADESH  
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE VIVEK RUSIA

&amp;

HON'BLE SHRI JUSTICE PRADEEP MITTAL

ON THE 18<sup>th</sup> OF FEBRUARY, 2026WRIT PETITION No. 37546 of 2024*PRASANNA NAMDEV (SONI)**Versus**THE HIGH COURT OF MADHYA PRADESH AND OTHERS*

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Appearance:

Shri Durgesh Kumar Singrore - Advocate for petitioner.

Shri Shobhitaditya - Advocate for respondent No.1 and 2.

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ORDER

*Per. Justice Pradeep Mittal*

The present writ petition has been filed by the petitioner challenging the orders dated 24.05.2024 and 26.10.2024 passed by the respondents, whereby the petitioner has been denied payment of ex-gratia and leave encashment.

2. The father of the petitioner, Late Prabhat Kumar Namdev, was working as a Driver at the District Court, Narsinghpur under the administrative control of the Madhya Pradesh High Court. During the course of his service, he expired on 09.05.2024. During his lifetime, Late Prabhat Kumar Namdev had nominated the petitioner in his service record on 26.07.2016. Earlier, his wife, Smt. Vimla Namdev, had been



nominated, however, she predeceased him. Consequently, he changed the nomination and recorded the petitioner as nominee in the official service record. After the death of her father, the petitioner submitted applications seeking settlement of retiral and service benefits, including GPF, leave encashment, ex-gratia, and other admissible dues. The respondents sanctioned and released the GPF amount vide order dated 14.10.2024 in favour of the petitioner, acknowledging her as the recorded nominee. The amount under the Karmchari Group Insurance Scheme was also released vide order dated 24.07.2024.

3. However, the claim of the petitioner for ex-gratia and leave encashment was rejected by the respondents vide impugned orders dated 24.05.2024 and 26.10.2024 solely on the ground that a married daughter is not entitled to receive such benefits.

4. Learned counsel for the petitioner submits that the impugned orders dated 24.05.2024 and 26.10.2024 are arbitrary, illegal, and violative of Article 14 of the Constitution of India, inasmuch as the petitioner has been denied ex-gratia and leave encashment solely on the ground that she is a married daughter of the deceased employee.

5. It is submitted that Late Prabhat Kumar Namdev, who was serving as a Driver under the administrative control of the Madhya Pradesh High Court, expired on 09.05.2024 during his service tenure. At the time of his death, the petitioner was the only surviving legal heir. The deceased employee had duly nominated the petitioner in his service



record on 26.07.2016 after the death of his wife. The respondents themselves have recognized the petitioner as a valid nominee by releasing the GPF amount and the amount under the Group Insurance Scheme in her favour. Compassionate appointment also given to the petitioner.

6. Learned counsel contends that once the petitioner has been accepted as the nominee and successor of the deceased employee and other retiral benefits have been released to her, there is no justification in law to deny ex-gratia and leave encashment on the sole ground that she is a married daughter. Such classification has no rational nexus with the object sought to be achieved and amounts to hostile discrimination.

7. It is further submitted that the impugned orders are contrary to the law laid down by the Larger Bench of this Hon'ble Court in *Meenakshi Dubey v. M.P. PoorvaKshetra Vidyut Vitran Co. Ltd.*, wherein it has been categorically held that exclusion of a married daughter from entitlement to service/death benefits is unconstitutional and violative of Article 14 of the Constitution of India.

8. Learned counsel submits that the petitioner, being the only legal heir and duly recorded nominee in the service record of the deceased employee, is fully entitled to all consequential service benefits, including ex-gratia and leave encashment. The rejection of her claim on the ground of marital status is discriminatory, contrary to principles of natural justice, and against the constitutional mandate envisaged under



Part III of the Constitution of India.

9. Learned counsel for the respondents submits that the impugned orders have been passed strictly in accordance with the applicable rules and policy governing ex-gratia and leave encashment. It is contended that mere nomination does not confer an absolute right to all service benefits, and as per the prevailing policy, a married daughter is not covered within the eligible category for ex-gratia. It is further submitted that there is no violation of Article 14 of the Constitution of India and the judgment in Meenakshi Dubey (supra) is distinguishable. Hence, the petition deserves to be dismissed.

We have heard learned counsel for the parties and perused the records.

10. The larger Bench of this Court in case of Meenakshi Dubey (supra) has held that the clause to the extent it deprives a married daughter from consideration for compassionate appointment hits Art. 14, 16 and 39(a) of the Constitution. A woman citizen cannot be excluded for any appointment on compassionate basis on the ground of sex alone. The daughter even after marriage remains part of the family and she could not be treated as not belonging to her father's family.

11. Depriving an employee of leave encashment is violative of Article 300A of The Indian Constitution. The Court stated that the employee has chosen to accumulate his earned leave to his credit and encashment becomes his right. The employer cannot deny employee of



such right. The right to leave encashment is a statutory right which cannot be forfeited by explicit statutory provision. pension, gratuity and leave encashment are rights that cannot be deprived without due process of law. Death of employ would not negate the right of leave encashment that the employees would have had at the time of retirement.

12. The retiral dues are also recognized as property under the Article 300-A of the Constitution. A person can be deprived from the property only in accordance with law made in this regard. In *Bhaskar Ramchandra Joshi v. State of M.P.*, reported in 2013 (4) MPLJ 35 it has been so held.

13. In the light of aforesaid legal position, it is crystal clear that right to get the aforesaid benefits is constitutional right. Gratuity or retiral dues can be withheld or reduced only as per provision made under M.P. Civil Services (Pension) Rules, 1976. In the present case, there is no material on record to show that respondents have taken any action in invoking the said rules to stop or withhold gratuity or other dues.

14. Respondent invite our attention towards the notification of Madhya Pradesh Government No 2355-IV-R-II-72 dated Bhopal, the 14th November 1972, in above notification the category of a person whom received the ex gratia. Relevant provision of the notification is given below.

*"4. 'To whom payable:*

*The ex-gratia payment shall be made to the persons indicated*



*below in the order of priority.*

*(i) Husband or wife of the deceased Government servant. Where more than one wife is living, the ex-gratia payment would be shared equally between them.*

*(ii) The eldest Son of the deceased Government servant, even though he may not be the eldest in the family.*

*(iii) The eldest Un married daughter of the deceased Government servant."*

15. The above notification does not debar the married daughter. The above rule is made to resolve the controversy between the legal heirs of the deceased, meaning thereby if the deceased is having more than one son/daughter, then the eldest son is only eligible to get ex-gratia. Secondly, if the eldest daughter is married, then she ousts the son to get the ex-gratia. Thirdly, on this point, the notification is silent as to if there are no heirs other than a married daughter, then who will receive the ex-gratia. Meaning thereby, the married daughter is not excluded if she is the only legal heir of the deceased.

16. Ex gratia is not a legally mandatory payment like gratuity, it is discretionary, based on employer policy. The purpose of ex gratia is to provide immediate financial relief to the family of the deceased employee. Ex gratia payments upon an employee's death are voluntary, compassionate lump-sum payments made by employers to beneficiaries. In our opinion, ex gratia paid to the employee after his death



immediately, probably on the same day, shows that the amount is for performing the funeral ceremony of the employee, hence, it cannot be denied on the ground that the married daughter cannot claim it.

17. We are the considered opinion that the ex-gratia and leave encashment of the deceased employee ought to be paid his legal heirs without differential that she is married or not.

18. With above view the writ petition is allowed and respondent is directed that the leave encashment or ex gratia amount be paid to the petitioner within 60 days from the date of receipt of copy of the order.

No order of cost.

(VIVEK RUSIA)  
JUDGE

(PRADEEP MITTAL)  
JUDGE

Praveen