

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL  
MUMBAI**

**ORIGINAL APPLICATION NO.153 OF 2022**

**DISTRICT : THANE**

**Sub.:- Pay & Martyr Salary**

Smt. Ratna Gopal Saindane. )  
Age : 40 Yrs, Occu.: Service, )  
R/at Sector No.1, Building No.C-1, )  
Room No.3/4, CBD Belapur, )  
Navi Mumbai. )...**Applicant**

**Versus**

1. The Commissioner of Police, )  
Navi Mumbai, Opp. RBI Bank, )  
Sector 10, Belapur, Navi Mumbai. )  
2. The Director General of Police. )  
Colaba, Mumbai. )  
3. The State of Maharashtra. )  
Through the Secretary, )  
Home Department, Mantralaya, )  
Mumbai. )...**Respondents**

**Mr. K.R. Jagdale, Advocate for Applicant.**

**Mr. A.J. Chougule, Presenting Officer for Respondents.**

**CORAM : A.P. KURHEKAR, MEMBER-J**

**DATE : 13.04.2023**

**JUDGMENT**

1. The Applicant, widow of deceased Government servant filed this O.A. challenging the communication dated 23.08.2021 and 30.08.2021 thereby rejecting her claim for benefit in terms of G.R. dated 06.02.2009

and declined to forward the proposal to the Government, invoking jurisdiction of this Tribunal under Section 19 of the Administrative Tribunals Act, 1985.

2. Shortly stated facts giving rise to this application are as under :-

Applicant's husband viz. Gopal Saindane was Police Naik on the establishment of Respondent No.1 – Commissioner of Police, Navi Mumbai. He was posted at Rabale Police Station. In the night of 26.02.2007, he was on Bandobast duty at Airoli, MSEB Power Station. There was dacoity at MSEB Power Station. Besides Applicant's husband, some other security guards were also posted at MSEB Power Station. The security guards as well as Applicant's husband resisted dacoits to save the property of Power Station, but dacoits attacked them with weapons. In that incident, unfortunately, Applicant's husband suffered fatal injuries and died. FIR under Section 307, 332, 224, 396 of Indian Penal Code and under Section 135 of Maharashtra Police Act was registered against six accused. After investigation, charge-sheet came to be filed in Sessions' Court, Thane. At the time of incident, Applicant's husband was 33 years old and died leaving behind widow and two children. In Sessions' case No.243/2007, Accused Nos.1 to 4 and 6 were convicted for the offences under Section 396 of IPC and sentenced to suffer life imprisonment.

3. In view of death of husband while discharging duties, Respondent No.1 appointed the Applicant on compassionate ground on Group 'D' post by order dated 03.04.2007. Besides, Respondent No.1 by order dated 28.04.2011 sanctioned monthly payment of pay and allowances to the Applicant which the deceased was getting and it was to be paid till the age of retirement of deceased. The said order was passed on the basis of G.R. dated 29.11.2008. Accordingly, Applicant was paid regular pay and allowances which was payable to her husband. Ex-gratia amount of Rs.2 Lakh was also paid to her. However, later, Respondent

No.2 – Director General of Police by his communication dated 23.08.2021 informed to the Applicant that she is not entitled to the benefit of the payment of monthly pay and allowances sanctioned earlier by order dated 28.04.2011 and it has been discontinued. It is on this background, the Applicant has filed this O.A. challenging the communication dated 23.08.2021 issued by Respondent No.2 and also challenged the communication dated 30.08.2021 issued by Respondent No.1 – Commissioner of Police, Navi Mumbai on the basis of communication dated 23.08.2021.

4. In O.A, Applicant further sought direction from the Respondents to continue the payment of pay and allowances (which was earlier granted as per order dated 28.04.2011) contending that she is entitled to it in terms of G.Rs. dated 29.11.2008, 29.08.2009, 28.07.2009, 30.04.2011 and 01.06.2011.

5. The Respondents resisted the O.A. *inter-alia* denying the entitlement of the Applicant to the monthly payment of pay and allowances which was payable to her husband. It is not in dispute that the husband of the Applicant unfortunately died in dacoity while discharging his duties at MSEB Power Station and bravely foiled the dacoity. It is also not in dispute that after the sad demise of husband, the Applicant was given compassionate appointment in Group 'D' post and was also granted ex-gratia payment of Rs.2 Lakh. The Respondent No.1 contends that by letter dated 06.10.2020, he forwarded the proposal to Respondent No.2 – Director General of Police for forwarding the same to the Government to give status of martyr to Applicant's husband. However, Respondent No.2 by communication dated 23.08.2021 communicated that there is no such scheme to declare Applicant's husband as martyr and the provisions of G.R. dated 06.02.2009 are not applicable. The Respondent No.2 thus declined to forward the proposal to the Government and closed the file. It is on the basis of it, Respondent No.1 by letter dated 30.08.2021 communicated it

to the Applicant. As regard order dated 28.04.2011 whereby pay and allowances was sanctioned to the Applicant, the Respondent No.1 contends that it was issued wrongly and now enquiry is ordered to fix the responsibility. The Respondent No.1, thus, denied the entitlement of the Applicant to any other benefits, as claimed by the Applicant in terms of G.R. dated 29.11.2008, 29.08.2009, 28.07.2009, 30.04.2011 and 01.06.2011.

6. The Respondent No.2 also resisted the O.A. by filing separate Affidavit-in-reply *inter-alia* denying the entitlement of the Applicant to any benefit claimed by her in O.A. No reply is filed by Respondent No.3 – Government.

7. Shri K.R. Jagdale, learned Advocate for the Applicant sought to assail the legality of impugned communications dated 23.08.2021 and 30.08.2021 *inter-alia* contending that instead of forwarding the proposal to the Government, the Respondent No.2 – Director General of Police himself took a decision that Applicant is not entitled to the benefit of G.R. dated 06.02.2009. According to him, the Respondent No.2 should have forwarded the proposal to the Government for appropriate orders. He further submits that initially, Respondent No.1 by order dated 28.04.2011 granted the benefit of continuation of pay and allowances of deceased Government servant till he attains age of retirement to the Applicant in terms of G.R. dated 29.11.2008, and therefore, there was no reason to discontinue the same or to cancel the benefit already granted. He referred to various G.Rs in this behalf, which will be dealt with a little later.

8. Per contra, learned P.O. submits that G.R. dated 29.11.2008 have no retrospective effect and Applicant's husband died on 27.02.2007 rendering his claim for the benefit of G.R. dated 29.11.2008 untenable. He further submits that initially though Respondent No.1 by order dated 28.04.2011 granted the benefit of payment of pay and allowances, it was

wrong and enquiry is now ordered to fix the responsibility for issuing wrong order. He has further pointed out that admittedly, Applicant was paid ex-gratia amount of Rs.2 Lakh and in addition to it, she is also appointed on compassionate ground. On this line of submission, he submits that the G.Rs relied by the Applicant are not at all applicable to the present case, since those pertain to different purposes and schemes.

9. There is no denying that in dacoity while fighting with the dacoits and to save the property of Power Station, the Applicant's husband suffered fatal injuries and unfortunately died in the said incident. The incident took place in the night of 26.02.2007. He had joined the service on 01.01.1997. Indisputably, after his death, the Applicant is provided compassionate appointment in Group 'D' post and also paid ex-gratia amount of Rs.2 Lakh.

10. In view of submissions, the issue posed for consideration is whether Applicant is entitled to receive pay and allowances payable to her husband which he would have received till attaining the age of superannuation.

11. The Government of Maharashtra had issued various G.Rs from time to time to provide financial assistance and some other benefits to Police Personnel who died in any such incident while discharging their duties. The Applicant and Respondents have placed various G.Rs on record and it needs to be examined to see the entitlement of the Applicant to the relief claimed.

12. In brief, the summary of G.R. are as under :-

- (i) By G.R. dated 10.04.1989, the decision was taken by the Government to pay ex-gratia payment and family pension to the family of deceased Government servant who died in

combat operations in Naxalite area of Gadchiroli, Chandrapur and Gondia Districts, as notified in the G.R.

- (ii) G.R. dated 16.03.2005 issued by Government is restricted to provide certain benefits to the family of deceased Police Personnel who died in combating Naxalite in Gadchiroli, Chandrapur and Gondia District. Thus, it is restricted to combat operations to eliminate Naxalite and jurisdiction is limited to Gadchiroli, Chandrapur and Gondia District.
- (iii) By supplementary letter dated 06.07.2005 to the G.R. dated 16.03.2005, the Government granted HRA.
- (iv) By G.R. dated 29.10.2008, for the first time, the Government expanded the area and it was decided to extend the benefit to Police Personnel who died or suffered injuries in the incident like dacoity. Clause No.(b) of G.R. dated 29.11.2008 is material, which is as under :-

“ब) नक्षलविरोधी कारवाई, अतिरेक्यांविरोधीची कारवाई, दरोडेखोरी, संघटित गुन्हेगारी विरोधी कारवाई व आपत्कालीन काळात मदत करताना, मृत व जखमी झालेल्या पोलीस अधिकारी व कर्मचा-यांच्या कुटुंबीयांना मृत व्यक्तीला त्याच्या मृत्यूच्या वेळी देय असलेले अंतिम वेतन, त्या मृत व्यक्तीच्या नियत वयोमानानुसार सेवानिवृत्त होईपर्यंत देय असेल.”

- (v) By G.R. dated 06.02.2009 again some additional benefits in the form of quarter, compassionate appointment, etc. were granted to Police Personnel who died combating Naxalite. This G.R. is referred by Respondent No.2 in impugned order while rejecting the claim of Applicant.
- (vi) By supplementary letter dated 29.08.2009 by way of Corrigendum to G.R. dated 29.11.2008, it was decided to give some more monetary benefits to the family of deceased Police Personnel considering his promotional avenues, as if he was alive and continued in service.

- (vii) By G.R. dated 08.07.2010, it was clarified that all the G.Rs referred to above will be applicable to concerned Police Personnel irrespective of date of joining. This clarification was issued in view of implementation of DCP Scheme for Government servants who are appointed after 01.11.2005.
- (viii) By G.R. dated 01.06.2011, the decision was taken by the Government to extend the benefits of increments while giving the benefit of pay and allowances of deceased Government servant to his family.

13. Above are the G.Rs which are referred by the learned Advocate for the Applicant as well as learned P.O. Except G.R. dated 29.11.2008, all other G.Rs pertain to Naxalite operations. It is for the first time in G.R. dated 29.11.2008, incident of dacoity amongst other is included providing certain benefits to the family of deceased Police Personnel. Notably, there is specific mention in G.R. dated 29.11.2008 that it is made applicable w.e.f. 01.11.2008. As such, even if the incident of dacoity is included for giving certain benefits and relief, it is made applicable w.e.f. 01.11.2008. In other words, it is not applicable with retrospective operation. Whereas in the present case, Applicant's husband died in dacoity in the night of 27.02.2007.

14. The learned Advocate for the Applicant despite repeated queries raised by the Tribunal could not point out any other G.R. or Government Scheme applicable or existing at the time of incident. All that, he submits that similar benefits were granted by the Government to the family of deceased Vilas Shinde, Police Hawaldar and Krushkumar V. Bidve, Police Naik. In this behalf, the perusal of orders of Government dated 09.09.2016 and 07.12.2021 reveals that in those cases, the Police Personnel died while discharging duties in assault made by the Accused on 31.08.2016 and 30.05.2009 respectively. Thus, in both the cases, incident occurred after issuance of G.R. dated 29.11.2008. Whereas in

the present case, Applicant's husband died in the night of 22.02.2007. Therefore, these instances are hardly of any assistance to the Applicant.

15. Needless to mention, it is for the Government to formulate certain policy and to make it applicable from particular date. In the present case, the incident of dacoity for the first time is introduced by G.R. dated 29.11.2008 and it being specifically made effective with prospective operation from 01.11.2008, the question of its applicability for getting pay and allowances of deceased Government servant to the Applicant does not survive. Therefore, the impugned communication whereby Respondent No.2 declined to forward the proposal to the Government stating that the provisions of G.R. dated 06.02.2009 are not applicable to the present situation cannot be faulted with.

16. In O.A, Respondent No.3 – Government has not filed reply. Therefore, considering the fact that Applicant's husband died on 27.02.2007 in dacoity and subsequently, by G.R. dated 29.11.2008, the Government included the incident of dacoity for giving certain benefits to the family of the deceased Police Personnel, it would be appropriate to grant liberty to the Applicant to make representation to the Government for claiming the benefit of G.R. dated 29.11.2008 and if any such representation is made, the Government (Respondent No.3) should take appropriate decision as deems fit having regard to the facts and circumstances of the case.

16. The totality of aforesaid discussion leads me to sum-up that the challenge to the orders dated 23.08.2021 and 30.08.2021 holds no water and O.A. is liable to be dismissed. However, liberty is granted to the Applicant to make representation to the Government and if any such representation is made within a month, then it be dealt with appropriately. Hence, the order.



**ORDER**

- (A) The Original Application stands dismissed.
- (B) Liberty is granted to the Applicant to make representation to the Government (Respondent No.3) claiming the benefit of G.R. dated 29.11.2008 and if any such representation is made within a month, the Respondent No.3 shall decide it appropriately as it deems fit within two months from the date of receipt of representation and the decision be communicated to the Applicant within two weeks thereafter.
- (C) No order as to costs.

Sd/-  
**(A.P. KURHEKAR)**  
**Member-J**

Mumbai

Date : 13.04.2023

Dictation taken by :

S.K. Wamanse.

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