
(2025) 04 OHC CK 1426
In the Orissa High Court
Case No : Writ Appeal No. 320 Of 2024

E. Meerabai Patro

APPELLANT

Vs

State Of Odisha And Others Vs

RESPONDENT

Date of Decision : 07-04-2025

Acts Referred:

Citation : (2025) 04 OHC CK 1426

Hon'ble Judges : Harish Tandon, CJ;B.P. Routray, J

Bench : Division Bench

Advocate : S. Pattanaik, B. Dash

Final Decision : Allowed

Judgement

B.P. Routray, J

1. Heard Mr. S. Pattanaik, learned counsel for the Appellant and Mr. B. Dash, learned Additional Government Advocate for State-Respondents.
2. Present appeal is directed against the impugned judgment dated 08.02.2024 of learned Single Judge passed in W.P.(C) No.28054 of 2022, wherein the prayer of the Petitioner to release financial assistance in terms of FD Resolution dated 4.8.2020 is rejected.
3. The admitted case of the parties is that, the deceased namely, Ashok Kumar Patro was serving as a Pharmacist in the District Headquarter Hospital, Rayagada since 1.7.2020. While serving as such, he was diagnosed with COVID-19 infection and hospitalized on 3.9.2020. He died on 11.9.2020 due to COVID-19 infection.
4. The dispute is regarding release of financial assistance in favour of the widow of the deceased in terms of the Government of Odisha Resolution No.22099, dated 4.8.2020 of Finance Department.
5. The widow of the deceased is the writ petitioner and the present Appellant.

Government of Odisha in Finance Department issued Resolution dated 4.8.2020 declaring support to personnel in active line of duty fighting COVID-19 pandemic and their families to provide incentive package under the Odisha Civil Services (Compassionate Ground) Rules, 1964 in the case of Government employees covered under the OCS (Pension) Rules 1992, who succumbed to COVID-19 in line of duty in active deployment by the State authorities. But when the Petitioner applied for financial assistance being the widow of the deceased, the same was finally rejected vide Letter No.17825 dated 22.06.2021 stating that the deceased's death cannot be declared as COVID Warrior Death.

6. As per Health and Family Welfare Department Notification No.17197, dated 20.7.2020 read with Corrigendum No.17941, dated 29.07.2020, the Eligibility and Mandatory Conditions of Eligibility have been provided as follows:-

"B. ELIGIBILITY

Any person engaged in COVID-19 related work drafted by Government of Odisha or any of its agencies, who are not eligible for insurance coverage under the guidelines issued by Government of India vide their D.O. letter No.Z-21020/16/2020 – PH Dt.30.03.2020 is eligible for such financial assistance to be given to their spouse or next of kin. It shall cover the following categories of personnel engaged in COVID-19 related duties by Government of Odisha or any of its agencies

1. Employees of State Government, Urban and Rural Local Bodies, PSUs, Autonomous Organisations, Societies under different Departments of the Government
2. Any private person or volunteer
3. Elected representatives
4. Any person hired by Government/its authorized agencies through a professional agency on contract/daily wage basis.

C. MANDATORY CONDITIONS OF ELIGIBILITY

The above category of persons will be eligible for financial assistance under these guidelines provided they fulfill the following mandatory conditions:

1. That they are drafted by Government or by its authorized agencies to perform COVID-19 related duties/responsibilities directly
2. The contact of COVID-19 infection must be while in active line of duty and the worker/employees must not be on any kind of leave from the duty

Provided that he/she is tested/detected COVID-19 positive within 14 days from his/her last day of active COVID-19 related duty (the 14 day count is from the last day of COVID-19 duty to the date of swab collection) and subsequently succumbs to COVID-19 or meets with accidental loss of life on account of COVID-19 related duty."

7. According to the Opposite Parties, the deceased was drafted for routine duties at Drug Distribution Centre before being diagnosed with COVID-19 infection. As he was not drafted for COVID management duty involving direct contact with COVID-19 patients, the proposal does not satisfy the mandatory conditions prescribed under Notification dated 20.7.2020.

8. Learned Single Judge held in the impugned judgment that, since the deceased was not drafted for COVID management related duties he is not coming under the purview of the guidelines, the case of the Petitioner to declare him (the deceased) as COVID Warrior is rejected.

9. It is seen from letter dated 12.9.2020 of the Chief District Medical & Public Health Officer, Rayagada (Annexure-1 to the writ petition), who is the controlling authority in respect of the deceased as a Pharmacist, that, the deceased was drafted for COVID-19 related work in Isolation Ward and Flu Clinic of District Headquarter Hospital, Rayagada. For immediate reference, the contents of said letter dated 12.9.2020 is re-produced below.

"To

The Collector & District Magistrate

Rayagada

Sub:- Death of Late Ashok Kumar Patra, Pharmacist, DHH

Rayagada COVID Warrior at Sum Covid Hospital,

Bhubaneswar due to COVID-19.

Sir,

With reference to the subject cited above I am to intimate that Late Ashok Kumar Patra, Pharmacist, DHH Rayagada was drafted for COVID-19 related work in isolation ward and FLU Clinic of DHH Rayagada. While on duty he was tested COVID positive on 01.09.2020. He got himself admitted at SUM COVID Hospital, Bhubaneswar on 03.09.2020. He was undergoing treatment and was declared dead on 11.03.2020 at 06.40 PM. The Cause of death is COVID-19.

The dead body of the COVID Warrior Late Ashok Kumar Patra, Pharmacist may be cremated with due honor as martyr as per government guideline.

Hence necessary steps may be taken in this regard and commissioner, Bhubaneswar Municipal Corporation may be intimated to do the needful.

The request letter of the pharmacist association is enclosed herewith.

Yours faithfully

Chief District Medical &

Public Health Officer, Rayagada"

However in the impugned order dated 22.6.2021 (Annexre-10 to the writ petition), it is stated that the deceased was not drafted for COVID management related duties and hence he may not be declared as COVID Warrior.

10. It needs to be mentioned here that a counter affidavit has been filed through the Additional Secretary to Government in Health & Family Welfare Department, Government of Odisha and in the said counter affidavit the State-Opposite Parties did not deny or dispute the letter of the Chief District Medical & Public Health Officer, Rayagada dated 12.9.2020 regarding the duties assigned to the deceased. The State-Opposite Parties also did not deny the averments of the Petitioner made in this regard at paragraph 3 of the writ petition. It is simply stated in the counter affidavit at paragraph 4 that, the State-Opposite Parties have no comments to offer with regard to the averments made in paragraphs 1 to 8 of the writ petition.

11. An affidavit dated 6.3.2025 has also been filed by the Chief District Medical & Public Health Officer, Rayagada in the present appeal, where nothing has been stated either denying or disputing his letter dated 12.9.2020 (Annexure-1 to the writ petition). Therefore it is established from the averments made and the materials produced on record that the deceased-husband of the Petitioner was drafted for COVID-19 related work and he was tested COVID-19 positive while on duty and died due to the same on 11.9.2020. If this is taken into account, the Eligibility and Mandatory Conditions of Eligibility as per Notification dated 20.7.2020 of the Health and Family Welfare Department, Government of Odisha are found satisfied in respect of the deceased to declare him as COVID Warrior.

Apart from the above, we need to mention here that even if the contention of the Opposite Parties is accepted to the effect that the deceased was deployed for duty at Drug Distribution Centre then also his exposure to contact with COVID-19 infected patients cannot be ruled out in course of discharging his duties as he has to distribute the drugs/medicines to different persons either at the distribution centre or by going to different places of the Hospital including the patient's wards. Therefore, his exposure towards direct contact with COVID-19 patients in course of discharging his duties as a Pharmacist is very much probable. So, looking from either way, particularly, when the Chief District Medical & Public Health Officer, Rayagada has certified that the deceased was drafted for COVID-19 related work, we find merit in the contention of the writ petitioner to get such financial assistance in terms of FD Resolution dated 4.8.2020. Learned Single Judge has failed to appreciate the duty discharged and assigned to the deceased before his infection and death, and the impugned judgment is set aside accordingly. The State-Respondents are directed to extend the benefits in favour of the Appellant (the widow) providing such financial assistance to her as per Government of Odisha Finance Department Resolution dated 4.8.2020.

12. The Writ Appeal is allowed to the above extent.

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