
(2011) 11 J&K CK 0031

In the Jammu And Kashmir High Court

Case No : Others Writ Petition (OWP) No. 934 of 2009

Kanta Devi

APPELLANT

Vs

State of Jammu & Kashmir and Others

RESPONDENT

Date of Decision : 04-11-2011

Acts Referred:

Citation : (2011) 4 JKJ 102

Hon'ble Judges : Jai Pal Singh, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Mr. Justice J.P. Singh

1. Harbans Lal, a Head Constable in the Police Department of the State Government, lost his life in an encounter with Militants at Police Post

Supwal-Samba. The petitioner, his widow, was paid Rs. 2 lac as ex-gratia relief.

2. Claiming benefit of Government Order No. 805-GAD of 1999 dated 15.07.1999 in terms whereof Rs. 5 lac was payable as ex-gratia relief to

the next of kin of the members of the Security Forces, killed in Operations, who were permanent residents of the State, the petitioner approached

the respondents seeking payment of remaining amount of ex-gratia relief in terms of the Government Order.

3. Her Claim was not entertained by the respondents proceeding on the premise that Government Order No. 805- GAD of 1999 dated

15.07.1999 would not apply to Police

4. Personnel as it was limited to its Application to the Defence Personnel killed in Jammu and Kashmir.

5. Heard learned counsel for the parties.

6. The short question that falls for consideration in the Writ Petition is as to whether the expression Security Forces used in Government Order

No. 805-GAD of 1999, would include Police Personnel too, who were killed in encounter, and whether the petitioner was entitled to additional

amount of Rs. 3 lac in terms of the Government Order.

7. The question as to whether the expression Security Forces include Police Personnel was examined by this Court in OWP No. 603/2005, Baij

Nath versus State of Jammu and Kashmir & ors., and dealing with the issue, it was held as follows:-

8. Going by this logic and rationale, the State cannot draw any distinction muchless valid distinction between a member of the State Police who has

laid his life while fighting with militants and the members of other Forces for the purpose of granting ex-gratia relief.

9. Perhaps, this being in mind, the government seems to have deliberately, instead of describing any particular Force in the Government Order No.

805-GAD of 1999 dated 15.07.1999 has used the comprehensive expression Security Forces so as to bring all the Forces fighting militancy under

one umbrella. Therefore, in my considered view, this expression would include the State Police Force also.

10. Refusal of petitioner's Claim for ex-gratia relief in terms of Government Order No. 805-GAD of 1999 dated 15.07.1999 by the State-

respondents, cannot, therefore, be justified in view of the concluded Judgment of this Court on the issue.

11. This Writ Petition, therefore, succeeds and is, accordingly, allowed. A direction shall issue to the respondents to release remaining amount of

Rs.3 lac to the petitioner within a period of four weeks. In case the amount was not so released within the stipulated period, the respondents would

pay interest on Rs. 3 lac to the petitioner @ 9% per annum.