

2025:PHHC:017334



**IN THE PUNJAB AND HARYANA HIGH COURT AT  
CHANDIGARH**

212

CWP-25272-2018

Date of Decision: 05.02.2025

**KRISHAN KUMAR BENIWAL**

... Petitioner

VERSUS

**STATE OF HARYANA AND ORS.**

... Respondents

**CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ.**

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Present: Mr. Ashish Rana and Mr. S.K. Rana,  
Advocates for the petitioner.

Mr. Tapan Kumar, DAG, Haryana.

Ms. Anita Balyan, Sr. Panel Counsel  
for respondents No.4 and 5.

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**VINOD S. BHARDWAJ, J. (ORAL)**

Claiming relief of *ex-gratia* compensation to the members of the family of a soldier killed in an operational area and challenging the order dated 12.08.2009 whereby the claim of the petitioner for grant of *ex-gratia* compensation had been declined, the petitioner has approached this Court.

Learned counsel for the petitioner has argued that Lieutenant Amit Kumar Beniwal, son of the petitioner, was commissioned in the Indian Army on 22.09.2007 and was posted in 21 Company of 8 Bihar Regiment under the Northern Command w.e.f. 13.10.2007 for Operation Rakshak in Jammu and Kashmir. On 17.11.2008 Lieutenant Amit Kumar Beniwal was under the command and leadership of Major Ajay Uprety, Sena Medal and

with other team members on the search and rescue mission team in area Sq. 4874 in an avalanche rescue operation. As the team approached the site of rescue, they were hit by an avalanche in Sq.4874 at approximately 14:50 hours. Seven members of the rescue team including Lieutenant Amit Kumar Beniwal were swept away by the avalanche. An immediate search and rescue operation was launched, whereupon the body of son of the petitioner was recovered at 12:00 hours on 21.11.2008. The cause of death was stated to be “VASOVAGAL SHOCK AND HYPOTHERMIA LEADING TO CARDIO RESPIRATORY ARREST”. The dead body was eventually brought to the native village of the petitioner and was cremated with full State Honours. He contends that the Adjutant General of Rehabilitation and Welfare Ceremonial and Welfare Directorate, Adjutant General Branch, Integrated Headquarter of Ministry of Defence (Army) issued a letter dated 06.01.2009 to the Zila Sainik Board, Jhajjar declaring the death of Lieutenant Amit Kumar Beniwal as a battle casualty and the cause of death being “died due to avalanche during operation Rakshak (J&K). A further request was made to the Zila Sainik Board to process the case of petitioner for grant of *ex-gratia* benefits/concessions to the next of kin of late officer as entitled from the State Government. The Battle Casualty Certificate dated 21.11.2008 was also issued by the Commanding Officer, 8 Bihar Regiment and counter signed by the Headquarter of 15 Corps. He contends that the petitioner thereafter applied to the Zila Sainik Board, Jhajjar for payment of *ex-gratia* grant on account of death of his son Lieutenant Amit Kumar Beniwal, as per the Government Scheme, who forwarded the same to the Secretary of the Rajya Sainik Board, Haryana vide letter dated 23.01.2009. The same was, however, kept pending.

The petitioner continued to pursue his claim and also sought information under Right to Information Act, 2005. Vide letter dated 12.08.2009, the claim of the petitioner was declined on the ground that it is not covered under the instructions issued by the Government of Haryana and hence, the claim has been ordered to be filed.

Learned counsel contends that Government of Haryana had issued instructions dated 30.09.1999, as modified on 15.06.2001, for payment of *ex-gratia* grants to the families of the deceased armed forces personnel and that the case of the petitioner is covered under the Government instructions for the grant of such *ex-gratia* financial benefits. It is contended that the respondent-State of Haryana has failed to take into consideration that Lieutenant Amit Kumar Beniwal was declared as a battle casualty by the Ministry of Defence and that even the State Government declared him as “Shaheed” in its public announcements, but the admissible benefits have still been denied unlawfully.

He places reliance on the *judgment dated 20.11.2009* passed by this Court in *CWP-6301 of 2008* titled as ‘*Smt. Santosh Versus Union of India and Others*’ wherein the persons, who die in harness while performing duties in extreme weather conditions, have been held to be covered by the purview of Government Instructions dated 30.09.1999 and *ex-gratia* compensation in terms of the said instructions was ordered to be released. The operative part of the said judgment reads as under:

*“I have heard learned counsel for the parties. No doubt, the petitioner's husband was posted at Border in a remote area and was member of the Operation Karma, but he died on account*

*of heart failure while discharging his duty in Gurez Sector which is known as a coldest place. At the time of his death, the petitioner was not engaged in any military action, though part of the Operation Karma and posted at the Morcha. The entire stand of the respondents that he died of heart attack. The fact that he was part of the Operational Unit and was posted at the Line of Control in a Morcha is not disputed. Though he did not die in an encounter or in the battle, but he was in the battle field. His case is, however, not covered by the Government instructions issued by the Ministry of Defence (Annexure P-5) whereby the ex-gratia is attributable to acts of violence by the terrorists and anti-national elements and during enemy action in international war or border skirmishes and action against militants/terrorists/extremists. The case of the husband of the petitioner also does not fall under the Government instructions dated 15.6.2001. However, the Government instructions dated 30.9.1999 provides for ex-gratia compensation in the families of defence personnel who died in harness in the performance of their bona fide official duties while serving in operation like Operation Karma and was posted at the Line of Control in a Morcha. He was performing a bona fide official duty and died in harness while performing such duty. It is also admitted position that he died due to severe cold in the area. Such a situation cannot be divorced from the performance of the bona fide duty. It is not necessary that he should die by a bullet of the enemy or on account of any injury or other factor. Another aspect of the matter which cannot be ignored is that the Government of India instructions even provides for payment of compensation where death occurs due to accident in course of performance of duty. The accident does not mean only vehicular accident but has wider connotation. It can be of any kind of accident. The petitioner's husband suffered on account of severe cold while discharging his duty and thus his*

*case falls within the purview of government instructions dated 30.9.1999.*

*In view of the above, this petition is disposed of with a direction to the respondents that the petitioner be paid ex-gratia compensation in terms of the government instructions dated 30.9.1999 (Annexure P-3) within a period of three months from the date of receipt of a certified copy of this order.”*

Responding to the above, learned State Counsel contends that undisputedly, Lieutenant Amit Kumar Beniwal died in an avalanche on 17.11.2008 and the petitioner had also applied for payment of *ex-gratia* compensation, however, his case was not covered under the applicable Scheme in force at the time of death of Lieutenant Amit Kumar Beniwal. As per the Scheme dated 15.06.2001, in force at the time, and the benefits admissible to soldiers under the said Scheme were confined to certain exigencies such as “action against militants, terrorists and extremists or during border skirmishes or if the cause of the death was due to IED Blast”. Since the death of Lieutenant Amit Kumar Beniwal was not attributable to any of the above factors, hence, the petitioner is not covered under the Scheme dated 15.06.2001. Communication in this regard was hence sent to him on 12.08.2009. He contends that the State of Haryana took cognizance of the fact that on account of harsh service conditions, certain people belonging to the State of Haryana may lose their lives and yet might not receive any financial aid from the Government, hence, in a partial modification carried out vide Memo No.21/1/97-4D-III dated 16.01.2015 to the Scheme of 15.06.2001, the Government of Haryana enlarged the scope of payment of *ex-gratia* compensation to include exigencies like MT accident, heart attack, air crash

accident at sea and natural calamities etc., which demand exceptional courage and decisions towards performance of their duties and the *ex-gratia* compensation was extended to such personnel under the relevant heads. He contends that in relation to the casualties that took place between 01.04.1999 to 18.02.2014, the *ex-gratia* financial benefits were confined to Rs.2,50,000/- which has later been increased to Rs.20,00,000/- for the casualties that took place on or after 19.02.2014. He submits that the benefit as admissible under the said Scheme, even though notified later, has already been released by the respondent-State in favour of the petitioner. He submits that the situation in hand has been provided for in the Scheme of 16.01.2015, for the first time, and as a measure of addition and enlargement of the scope of *ex-gratia* compensation and to cater to the areas that were earlier not covered under the erstwhile Scheme in force. The incident in hand being of the year 2008, hence, the *ex-gratia* benefit cannot be released.

A further argument has been raised that the grant of financial assistance and *ex-gratia* rewards are matters of State Scheme and involve financial implications. It is not a matter of a fundamental or statutory right of any person; and any person claiming such benefits is required to fulfill the eligibility conditions prescribed in the State Scheme. In the event of the claimant failing to fulfill the eligibility conditions prescribed in the said Scheme, he cannot avail such benefit.

Learned State Counsel further submits that a Division Bench of this Court in *LPA No.1291 of 2012* titled as '*Smt. Krishna Devi Vs. Union of India and Others*' decided on **09.12.2013** had specifically held that the instructions dated 15.06.2001, as clarified on 07.11.2001, were held to be

prospective in nature and not retrospective and could not be taken aid of to deny benefit that had accrued in favour of a person. He further submits that the aforesaid Division Bench Judgment was relied upon by this Court in **CWP No.23956 of 2018** decided on **27.08.2024** in the matter of '**Smt. Jagroshni Devi Versus Union of India and others.**' It is thus contended that only the events/casualties that took place post issuance of the Scheme of 15.06.2001 as clarified on 07.11.2001 would be covered under the modified/amended Schemes.

Learned Sr. Panel Counsel appearing on behalf of respondents No.4 and 5 contends that there is no claim against the Union of India and the admissible benefits under the Schemes notified by the Ministry of Defence already stand released in favour of the petitioner. The claim is now between the petitioner and the respondents-State under the Scheme that has been notified by the respondent-State itself.

No other argument has been addressed nor any other judgment cited by any of the parties.

I have heard the learned counsel for the respective parties and have gone through the documents and other material available on record with their able assistance.

The core question that arises for consideration of this Court is as to whether petitioner, whose son has been declared as a battle casualty by the Ministry of Defence, is entitled to claim the benefits under the State Scheme for grant of financial benefits prescribed thereunder.

It would thus be appropriate to refer to the relevant terms and conditions for grant of *ex-gratia* compensation/benefits under the Scheme

notified by the State of Haryana vide Memo No.13/8/92-4D-III dated 30.09.1999. The Government of Haryana had decided thereby to extend the financial benefits to families of the defence service personnel, who die in harness, in the performance of their bonafide official duties while serving in operations like Kargil etc. The relevant extract of the said instructions is reproduced hereinafter below:

*“From*

*The Chief Secretary to Govt. Haryana,  
(Defence Branch)*

*To*

*All Deputy Commissioner & Presidents,  
Zila Sainik Boards in Haryana*

*Memo No.13/8/92-4D-III  
Dated, Panchkula, the 30<sup>th</sup> Sept.99*

*Subject:- Ex-gratia and children education grants to the families of armed Forces personnel killed/missing/prisoners of war/ disabled in Kargil and other sectors.*

*I am directed to refer to Haryana Government Memorandum No. 13/8/92-4D-III dated 17.6.99, 23.6.99, 2.7.99 and 25.7.99 and to say that this Memorandum will supersede the last four Memorandum No. 13/8/92-4D-III dated 17.6.99, 23.6.99, 2.7.99 and 25.7.99.*

*Haryana Government has decided that with effect from Ist April, 99 the Ex-gratia grant/compensation to the families of the Defence Service Personnel and of the Para Military Forces who die in harness in the performance of their bonafide official duties while serving in operations like Kargil another sectors shall be Rs.10 lacs for all categories namely Officers, Junior Commissioned Officers and other ranks and to the disabled as explained under for all categories depending upon the percentage*

*of disability as assessed by concerned authorities irrespective of the fact whether they are retained as welfare measure of boarded out.”*

The Government of Haryana thereafter modified the aforesaid Scheme vide Memo No.21/1/97-4D-III on 15.06.2001. The relevant extract thereof reads thus:

*“From*

*The Chief Secretary to Govt. Haryana,  
(Defence Branch)*

*To*

*All Deputy Commissioner & Presidents,  
Zila Sainik Boards in Haryana*

*Dated: 15 June 2001*

*Subject:- Reward Money & Ex-gratia grants to the families of Defence Forces Personnel killed in operational areas and to those personnel invalidated out due to disabilities.*

*1. The question of payment of Ex-gratia grant to the families of Defence Forces personnel in the light of the Govt of India's instructions dated 22.9.98 and 3.8.99 has been under consideration of the Govt for some time and it has been decided to modify Haryana Govt instructions No. 13/8/92-4D-III dated 30.9.99 as under-*

*(a) A reward Money of Rs. Ten Lac in recognition of acts of bravery, gallantry and sacrifice would be paid to the families of those defence personnel hailing from Haryana, who die during an enemy action in International war or such war like engagements, which are specifically notified by the Ministry of Defence, Govt. of India. This would be in addition to whatever Ex-gratia relief is admissible under Govt. of India instructions.*

(b) Ex-gratia grant will be admissible to the families of those defence personnel who hail from Haryana and get killed in militant encounters and declared as Battle Casualties as per amounts given in Annexure 'A' and conditions of eligibility given in Annexure 'B'.

(c) Ex-gratia grant will be given to those personnel of the Defence Forces hailing from Haryana who get disabled for life and are boarded out of service due to disability declared as Battle Casualty/Battle Accident depending on the percentage of disability suffered in the first instance during life at the rates given in Annexure A' and the eligibility conditions given in (annexure "B").

(d) These instructions would be applicable only in cases of Defence service personnel.

2. The rates of Ex-gratia grants mentioned in Annexure 'A' will be applicable for all operations on and after issuance of this letter but the rates of Ex-gratia amount as enumerated in para 3 of the Scheme letter dated 30.9.99 will remain operative in respect of casualties (Battle casualties and Battle accidents) that have occurred on and after 1.4.99 and before the date of issue of this letter

1. The cases prior to 1.4.99 will continue to be governed as per instructions contained in the Scheme letters dated 1.7.92 and 1.4.94.

2 The eligibility conditions as laid down in Annexure 'B' will be applicable with effect from date of issue of this letter and all cases of Battle Casualties and Battle Accidents between the period 1.4.99 and before the date of issue of this letter will be governed by the Scheme letter dated 30.9.99.

XXX            XXX            XXX”

It is evident from a perusal of the abovesaid Memo of 15.06.2001 that the eligibility conditions for grant of financial benefits viz. reward money as well as *ex-gratia* grant, as specified in Annexure-A have been prescribed in Annexure-B to the aforesaid instructions. The said eligibility conditions are reproduced hereinafter below:

**THOSE WHO ARE ELIGIBLE FOR THE REWARD MONEY OF Rs.10 LACS**

Families of Defence Forces Personnel belonging to Haryana who are killed in an enemy action in an International War or War like engagements which are specifically notified by the Ministry of Defence, Govt. of India.

**THOSE WHO ARE ELIGIBLE FOR EX-GRATIA GRANT**

Families of Defence Forces Personnel belonging to Haryana and killed and notified as Battle Casualties/Battle Accidents by Defence authorities when the death is due to: -

- a) Militant/terrorists encounter in operational area or due to Border Skirmishes.
- b) I.E.D blast.”

**(Emphasis supplied)**

Further, the State of Haryana expanded the scope of *ex-gratia* grant to the families of armed forces personnel vide its Memo No.21/1/97-4D-III dated 16.01.2015. The relevant extracted thereof reads as under:

“From

*The Chief Secretary to Govt. Haryana,  
Defence Branch, Panchkula.*

To

*All the Deputy Commissioners & Presidents  
Zila Sainik Boards in Haryana.*

Memo No.21/1/97-4D-III

Dated: 16/1/2015

*Subject:- Revised Scheme/instructions regarding Payment of ex-gratia grant to the families of Armed Forces Personnel (Army, Navy & Air Force (belonging to Haryana State Killed/disabled in war/operation, in area, terrorist activities and natural calamities etc.*

*Reference is made to this office memo No. 13/8/92-4D-III dated 30-9-99 and certification dated 07.11.2001 and memo No. 21/1/97-4DIII dated 15.6.2001 on the subject noted above.*

*2. The Governor of Haryana is pleased to enhance the rate of ex-gratia grant to be given to the family members of Armed Forces Personnel (Army, Navy & Air Force), who die in harness or get disabled in the performance of their bonafide official duties while serving in operational areas/in war/terrorist or military attack, Border Skirmishes and united nation peace keeping force etc. The grant ex-gratia admissible under the Scheme/instruction shall be given in all cases of "Battle casualty" as declared by the Defence Authorities, irrespective of any operation or any specified area of operation. The Governor of Haryana is further pleased to enlarge the scope of payment of ex-gratia grant to include contingencies like M.T. accident, heart attack, air crash accident at sea and natural calamities etc. which demand exceptional courage and decisions towards performance of their duties. The revised structure will be as under: -*

<i>Sr. No.</i>	<i>Contingency covered</i>	<i>Existing rates of ex-gratia for casualties from <b>01.4.99 to 18.2.2014</b></i>	<i>Revised rates of ex-gratia for battle casualties which occurred on or after <b>19.2.2014</b></i>
<i>i).</i>	<i>Death in war and action against Militaries/terrorist and Border skirmishes etc.</i>	<i>Rs.2,50,000/-</i>	<i>Rs.20,00,000/-</i>
<i>ii).</i>	<i>Death during I.E.D. Blast</i>	<i>Rs.2,00,000/-</i>	<i>Rs.20,00,000/-</i>

iii).	<i>Death declared as Battle Casualty by the Defence authorities, irrespective of any operation or any specified area of operation. Defence Forces personnel posed in United Nation peace keeping force and accidents like Air Crash, M.T. accident, at sea, heart attack and loss of life during natural calamity.</i>	-NIL-	Rs.20,00,000/-
XXX XXX XXX”			

***(Emphasis supplied)***

It is evident from a conjoint reading of the aforesaid that there has been a marked shift from the eligibility prescribed in the instructions dated 30.09.1999 for grant of *ex-gratia* financial benefits as modified on 15.06.2001 to the amendment/revision on 16.01.2015. While the family of a defence service personnel was entitled to grant of *ex-gratia* financial benefits under the notified scheme of 30.09.1999 in the event of such personnel dying in harness in performance of his bona fide official duty while serving in operations, the abovesaid eligibility was modified and the scope of the beneficiaries was confined to be extended to the families where a defence personnel was killed in an enemy action in an international war or warlike engagement as notified by the Ministry of Defence, Government of India. The *ex-gratia* grant was to be extended to the families of defence personnels who were killed and notified as battle casualties/battle accidents when the death is on account of militant/terrorist encounter in operational area or due to border skirmishes or on account of I.E.D. Blast. Hence, for availing the reward money of

Rs.10,00,000/- or the *ex-gratia* grant, the death should have been in an enemy action in an international war or warlike engagement as notified by the Ministry of Defence which such eventuality undisputedly does not exist in the present case.

For availing the benefit of *ex-gratia* grant as per the State Scheme, even though the defence personnel who died and was notified as a 'battle casualty', however, such death has further been qualified to be a death due to "militant/ terrorist encounter in an operational area or due to border skirmishes" or "on account of I.E.D. blast". Hence, the qualified defined expression of "battle casualty" being due to a 'militant/terrorist encounter in an operational area or due to border skirmishes or on account of I.E.D. blast' was the only form of battle casualty which was prescribed as a pre-requisite for availing the *ex-gratia* compensation/grant under Clause 1(b) of the Scheme as modified on 15.06.2001.

Hence, even though the death of son of petitioner may have been declared as a battle casualty by the Ministry of Defence, however, the death in question cannot be said to be on account of militant/terrorist encounter in an operational area or due to border skirmishes or on account of I.E.D. blast and was rather during a rescue mission.

At this juncture, it would also be apposite to make a reference also to the specific ineligibilities that have been notified in 'Annexure B' to the notification of 15.06.2001. The same are extracted as under:

**THOSE WHO ARE NOT ELIGIBLE**

1. *Personnel of the Central Police Organization, Para Military Force like B.S.F., C.R.P.F., I.T.B.P., C.I.S.F.,*

*Home Guard, Assam Rifles, Rapid Action Force etc. and those other who are under the jurisdiction of Ministry of Home Affairs, Since the Govt. of India compensates their personnel.*

2. *Physical Casualties i.e. Natural death, accidental deaths like MT accidents, air crashes or handling of explosives on any areas/sector.*
3. *Casualties which occur during internal security duties, election duties and flood duties or any other duties in aid to Civil Authorities.*
4. *Those disabled soldiers who are retained in the Defence services and not boarded out on Medical grounds even though their disability is attributable to Military Service.”*

The aforesaid State intent is further crystalized from the ineligibilities as prescribed by the respondent-State in ‘Annexure B’ excluding the physical casualties including natural death/accidental deaths like MT accidents etc. Hence, any death on account of any accident was specifically excluded from the zone of reward as well as *ex-gratia* financial benefits.

The above conclusions are further fortified from the subsequent notification of 16.01.2015 issued by the State of Haryana wherein they have used the expression “battle casualties” and brought accidental deaths/disabilities for other reasons within its fold. It is apparent that the contingencies covered included deaths in war actions against militants/terrorist and border skirmishes etc. as well as deaths that have been declared as a battle casualty by the defence Authorities. This Court notices that even though the respondent-State has claimed that they treated the claim of the petitioner under Clause 2(i) for grant of *ex-gratia* benefit of Rs.2,50,000/- by treating it a death

in a war action against militants, however, the case of the petitioner would rather fall in Clause 2(iii) of the Scheme dated 16.01.2015 and technically the entitlement of the petitioner may have required a relook. However, at this stage, this Court would not delve into the said issue since the respondent-State has already released the said benefit and does not intend to re-examine the same. The disbursement of *ex-gratia* financial benefit/ assistance already released to the petitioner is hence ordered to be protected at this stage.

At the same time, payment of reward or *ex-gratia* grant is to be examined from the 'scheme' document. A mistake occasionally committed by an authority/Court is to inter-changeably use the expressions 'policy' and 'scheme'. The word 'policy' as has been defined in Black's Law Dictionary, 8<sup>th</sup> Edition as: -

*"The general principles by which a government is guided in its management of public affair."*

The same are thus broad guidelines or principles set by the Govt. or organization and provide a framework for decision making.

The expression "scheme" has been defined in Black's Law Dictionary, 8<sup>th</sup> Edition as "a systematic plan, a connected or orderly arrangement." The same is thus a specific execution initiative designed for implementation of a decision. The scheme actually prescribes the mode and manner in which a decision is to be implemented. The difference can be better understood by an illustration. The State may, in a given time, take a policy decision to provide financial aid to oppressed or vulnerable sections of the society. A scheme or schemes for extending benefit in terms of the policy decision may then be prepared for different sections by way of intelligible

differentia and may be for widows, senior citizens, children or scheduled castes, backward classes etc. The eligibility and benefits under each such scheme may be at variance and cannot be challenged on the ground that one scheme provides a better deal than the other. Each person claiming benefit has to be eligible in terms of the scheme to claim the said benefit. The distinction is real and lawful and any erosion of the said distinction by even a judicial pronouncement would amount to doing an executive function i.e. altering/amending the scheme document and adding a set of beneficiaries that were not provided for.

But way of a judicial pronouncement, a Court of law only interprets a scheme and cannot re-write the scheme to fill up a clause omitted. The same would thus render a judicial decision as an overreach by a Constitutional Court. Needless to mention that whenever any terms; eligibility or benefits are prescribed in a scheme, there is a lot of administrative input that goes into it and the classification of beneficiary; the eligibility conditions or the limitation on financial benefits cannot outrightly be termed as unconscionable or arbitrary, without any justiciable data and cause. The governments may separate schemes even for different incidents but the same is an administrative function and any act of extending the benefits due to sympathy adds an entire new class of beneficiaries. The same thus amounts to a rewriting of scheme document by the Court.

Having explained the scope of Schemes as notified by the State of Haryana, this Court also needs to point out that the grant of financial assistance from the State is not a matter of right and it is rather a policy decision taken by the State where the State has an ultimate authority to

prescribe the eligibility conditions for a person to claim benefit under the same. Such Scheme being the absolute prerogative of the Executive, any person wanting to claim a benefit under the said Scheme is required to establish the entitlement and eligibility within the parameters prescribed therein. Further, it is not in dispute that the policy decision or the scheme document is not under challenge in the present petition. Hence, the rationality of prescribing such eligibility conditions cannot be gone into by this Court.

Hence, since the State is competent to prescribe the eligibility conditions as pre-requisite(s) under a benevolent scheme and a conjoint reading of the provisions under the schemes as modified and revised clearly shows that there has been a shift from “death in harness while performing official duty” to “qualified eventualities of deaths and disabilities”, due to war or IED blast, it cannot be held that even though the death of Lieutenant Amit Kumar Beniwal took place in the year 2008, when the instructions of 2001 were in force, yet the petitioner would be entitled to be considered under the Scheme of 1999.

For the said reasons, I find that the claim of the petitioner is not based upon proper appreciation of the applicable Scheme and there is no illegality, impropriety or perversity in the decision taken by the State in declining the claim of the petitioner for grant of financial assistance under the Scheme of 1999.

Before parting, it would be necessary also to consider the judgment of this Court passed in *CWP-6301 of 2008* and relied upon by the counsel for the petitioner. It is evident from a perusal of the said judgment that the benefits therein have been extended by a Single Bench of this Court under

the Scheme of 1999, wherein the contingency entitling a person for financial benefits was 'death in harness while performing official duties', which is not the case here as the Clause had been amended on 15.06.2001. The applicability of the Scheme of 2001 was neither considered nor was the interplay between the two Schemes and the changes introduced, under consideration of the Hon'ble Single Judge. For the said reason, the judgment relied upon by the learned counsel for the petitioner is not applicable to the facts and circumstances of the instant case.

The petition is accordingly dismissed.

**(VINOD S. BHARDWAJ)  
JUDGE**

**FEBRUARY 05, 2025.**

*rajender*

*Whether speaking/reasoned* : Yes/No

*Whether reportable* : Yes/No