



2025:AHC:213277-DB

**HIGH COURT OF JUDICATURE AT ALLAHABAD
WRIT - C No. - 29280 of 2022**

Smt. Raj Kumari

.....Petitioner(s)

Versus

State Of U.P. And 3 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Sanjeev Kumar Yadav, Siddharth Srivastava
Counsel for Respondent(s)	:	CSC

Court No. - 4

A.F.R.

HON'BLE AJIT KUMAR, J.

HON'BLE SWARUPAMA CHATURVEDI, J.

Per Swarupama Chatuvedi, J.

1. Heard Sri Sanjeev Kumar Yadav, learned counsel for the petitioner and Sri Pradeepta Kumar Shahi, learned Additional Chief Standing Counsel for the State respondents.
2. By means of this petition filed under Article 226 of the Constitution petitioner is seeking quashing of the order dated 02.07.2022 passed by the District Magistrate, Etawah whereby representation of the petitioner dated 25.5.2025 for grant of compensation has been rejected. Alternatively, it is prayed that the respondents be directed to give the benefit of ex-gratia to the petitioner as per the Government Order dated 01.6.2021.
3. The petitioner is the widow of Late Kaushal Kishore, who was serving as a Lecturer at Janta Inter College, Bakewar, Etawah, and was deployed for election duty during the Tristariya Panchayat Election-2021 on 19.04.2021, at the peak of the COVID-19 pandemic. Immediately after completing his election duty, he developed severe symptoms of COVID-19, including high fever and breathing difficulties. He received treatment on 22.04.2021 and 24.04.2021, and on 27.04.2021 he was examined at the Government Hospital, Etawah, where doctors suspected COVID-19 and advised testing. His sample which was collected on 27.04.2021 led to a report recommending repeat sampling due to evident COVID-19

symptoms, and on 29.04.2021, the second test confirmed him to be COVID-19 Antigen Positive. His condition deteriorated rapidly, and while being taken to Saifai Medical College for further treatment, he passed away on 01.05.2021.

4. The petitioner applied for ex-gratia compensation under the Government Order dated 01.06.2021, which provides payment for an ex-gratia amount of Rs. 30 lakhs to be paid to employees who die within one month of performing election duty. As Late Kaushal Kishore died within 12 days of his duty, the petitioner's claim was fully covered under the scheme. Despite this, the respondent no. 2 rejected the claim of the petitioner vide impugned order dated 02.07.2022 on erroneous grounds that no COVID-19 test was conducted and no proof of infection was available. The petitioner had annexed multiple documents including hospital prescriptions, COVID-19 lab reports, and medical certificates issued by government hospitals which clearly establish the presence of COVID-19 infection, and she contends that the respondents' findings are arbitrary, negligent, and contrary to the official records.

5. Learned counsel for the petitioner submits that the impugned order dated 02.07.2022 deserves to be quashed as it is arbitrary, illegal, and contrary to the medical records issued by the respondents' own departments, all of which clearly establish that Late Kaushal Kishore had contracted COVID-19 immediately after performing election duty on 19.4.2021 and died within one month on 1.5.2021, squarely fulfilling the conditions of the Government Order dated 01.06.2021, and, therefore, in the interest of justice, it is prayed that the respondents be directed to grant the ex-gratia compensation for which the petitioner is legally entitled.

6. Per contra, learned Additional Chief Standing Counsel submits that the claim of the petitioner has been rejected on the ground that she was unable to produce the Antigen/RT-PCR +ve Test Report and the CT Scan of her deceased husband which can prove that her husband died due to COVID-19 while performing election duty. Hence, she is not entitled for any payment as per the Government Order dated 1.6.2021.

7. Having heard the learned counsel for the respective parties and having

perused the records, in our considered view, there are enough medical reports to establish that husband of the petitioner was having all symptoms of the COVID-19. The impugned order states that the deceased was not tested for COVID-19 antigen and subsequently the same impugned order states that the petitioner could not supply any test report to establish that the deceased was infected with COVID-19. After going through records of the case, it appears that there is one report dated 29.04.2021 of Dr. Bhimrao Ambedkar Combind Hospital (Male) Etawah, copy of which has been brought on record as Annexure-5 to the writ petition, which records that COVID-19 Test Result is "Ag. Positive".

8. A previous document filed as Annexure-4 indicates that a repeat sampling was required and upon repeat sampling the deceased was reported to be COVID-19 positive. Both these documents filed as Annexure-4 and 5 have been referred to in paragraphs 7 and 8 of the writ petition. Sufficient pleadings have been raised as to how the petitioner was advised for repeat COVID-19 test after he was admitted in the hospital in question. Paragraphs 7 and 8 of the writ petition are reproduced as under:-

"7. That as the condition of late Kaushal Kishore had not improved and got serious problem in breathing thus was admitted in the said Hospital on the same day in emergency, where doctors had advised for RTPCR as they were under doubt that late Kaushal Kishore got infected with COVID - 19 virus. Thereafter sample was collected on 27.04.2021 itself and the report of the said test concluded to repeat sampling. This very clearly establish that the report was not negative and its only because certain symptoms of COVID-19 was there and thus was advised for re sampling. Copy of the prescription issued by emergency of the Hospital and UP Covid Lab Report are being collectively annexed herewith and marked as Annexure No.-4 to this writ petition.

8. That as symptoms in previous report establish the presence of COVID-19 virus, thus retest was done on late Kaushal Kishore on 29.04.2021, the report of which was given on the same day i.e. on 29.04.2021, which confirms that late Kaushal Kishore got positive with COVID-19 virus. Copy of the medical prescription of Dr. Bhim Rao Ambedkar Combined

Hospital(Male) Etawah dt 29.04.2021 is being annexed herewith and marked as Annexure No.-5 to this writ petition."

9. In reply to paragraph 7 there has been no denial in paragraph 10 of the counter affidavit that runs as under:-

"10. That the contents of Paragraph No. 7 of the writ petition as stated are not admitted hence denied. In reply it is submitted that it was advised to the husband of the petitioner to get report of RTPCR on 27.04.2021 and in its report dated 29.04.2021, re-sampling is advised. A true Photostat copy of medical prescription along with report is being annexed herewith and marked as Annexure No. CA-9 to this counter affidavit."

10. However, contents of paragraph 8 of the writ petition have been specifically denied only on the ground that two doctors who claimed to be having posting on the relevant dates in the hospital had denied to have signed both the advise as well as Antigen positive report in their respective statements. Paragraph 11 of the counter affidavit runs as under:-

"11. That the contents of Paragraph No. 8 of the writ petition as stated are not admitted hence denied. In reply it is submitted that in the annexure annexed along with paragraph under reply, in receipt dated 29.04.2021 advise of antigen test and the report is positive is shown but when the aforesaid fact verified from the Chief Medical Superintendent of Dr. Bheem Rao Ambedkar Combined Hospital (Male), Etawah, he gave his report and has submitted that Dr. Varun Chaudhary and Dr. Abhishek Swarnkar who was on duty on 29.04.2021 had stated that the said slip has not been written by them from the register of the Antigen Test also the antigen test of the husband of the petitioner is not registered and the petitioner by making forged slip is trying to get undue advantage. A true Photostat copy of register and the statements of the Doctors are being annexed herewith and marked as Annexure No. CA-10 to this counter affidavit."

11. We have carefully examined Annexure-4 of the writ petition and find there to be UHID code given at the right hand top of the document and

also with a 'General Emergency Token No. 44' as well. Patient's name and registration is also there. It is not denied to the doctor in his statement that patient was admitted in the hospital and all that he says in his statement is that he was having morning and night shift assignment of duty in the hospital and that he had not signed the document of advice. Thus, even if, he claimed to have not signed but having not denied the document, statement cannot lead us to assume that the document was a forged document. It may have been possible that any other doctor on duty might have signed or equally it could be possible that any junior doctor signed because during pandemic COVID-19 time, the State Government finding it hard though trying its best to arrange medical facilities that were far less in terms of appliances and staff than what was required to meet the emergency. It is equally not the stand of the respondent that only Dr. Varun Chowdhary was allotted duty in the hospital. Still further, the document appended next to this annexure in the writ petition is a slip generated by the UP Covid Lab of the hospital in the name of "UP Covid Lab Results" asking for repeat sampling and this document is having a Case ID-EWHN0031698480, and respondents do not dispute the Case Id in the counter affidavit. Antigen advice for repeat sampling since was a computer generated slip of UP Covid Lab concerned, it might not have been required to be signed by any doctor and therefore, merely because it was not signed by any doctor it would not become a forged document.

12. Thus, it appears that those two doctors who gave statements, were just required to make statements whether they signed the document or not. Had the hospital and the UP Covid Lab denied the document, it could have been said that the document was a forged document set up for the case. The Antigen positive report also bears the Emergency Lab ID as 793 and naturally, therefore, the test results would bear the signature of the technician or the person superintending the lab and not a doctor/medical officer necessarily unless and until a particular doctor was assigned to sign such report. The statements filed of the two doctors do not bear any recital to the effect that they were the only authorized person to sign the antigen reports. Hence, in our considered view, respondent concerned was not justified in rejecting the claim of the petitioner for compensation only on the basis of the statements of two doctors without verifying the facts

from the lab and the hospital having ID details and the patient details already on record of those two documents in question.

13. In view of the above, writ petition succeeds and is **allowed**. The impugned order dated 02.07.2022 passed by the District Magistrate, Etawah is hereby **quashed**.

14. The District Magistrate, Etawah is directed to reconsider and pass the order for purposes of payment of compensation to the petitioner in the light of observations made hereinabove, as expeditiously as possible positively within a period of one month from the date of production of certified copy of this order.

(Swarupama Chaturvedi,J.) (Ajit Kumar,J.)

November 27, 2025

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