

CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH, KOLKATA

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O.A/350/564/2020

Date of Order: 18.01.2021

Coram: Hon'ble Mr. Tarun Shridhar, Member (A)

Smt. Sushila Shah, wife of Late Kamal Sah, CMD
(OG) Nationality: Indian, residing at 126, Motilal
Gupta Road, P.O. Barisha, P.S:Haridevpur, Kolkata,
700008, Dist. South 24 Parganas, State - West
Bengal.

--Applicant

-Vs-

1. Union of India, through Secretary, Ministry of Defence, South Block New Delhi, 110001.
2. GE(P)(Navy & CG) Kolkata P7, Damodar Complex, Naval Transit Accommodation, 3, Garden Reach Road, Hastings, Kolkata - 700023.
3. The Jt. Dir (per & legal) Chief Engineer, Kolkata Zone Military Engineer Services, Ballygunge Maidan Camp, Gurusaday Road, Kolkata 700019.
4. The AO II, SO-III (Records), Chief Engineer Eastern Command, Head Quarter, Engineer Branch, Fort William, Kolkata 700021.
5. The Sr. Accounts Officer (P) Area Accounts Officer, E.M. Block, Sector -V Salt Lake, Kolkata 700091.
6. The Sr. Accounts officer (P) O/O the PCDA, Draupadi Ghat, Allahabad, 211014.
7. The CE (CG) Vizag, C.E. Navy Station Road, Waltair, R. S. Vishakhapatnam, Urban Andhra Pradesh - 530004, India.

--Respondents.

For The Applicant(s): Mr. S. Bhattacharya, counsel
Mr. N. Roy, counsel

For The Respondent(s): Ms. P. Goswami, counsel

O R D E R (O R A L)

Mr. Tarun Shridhar, Member (A):

Heard ld. counsel appearing for both parties.

2. The applicant, Smt. Sushila Shah, seeks relief of death compensation on account of the death of her husband, Late Kamal Sah, who was an employee of the respondents.

The brief fact of the case is that, the said ex-employee went missing on 28th October, 2003 and has not been traced since then. As per law, it comes

under the definition of presumptive death; however, no death certificate has been issued in this respect by the competent authority.

3. Ld. counsel for the applicant submits that the respondents have already granted family pension to the applicant and also released the gratuity. He has produced the pension payment order issued by the Principal Controller of Defence Accounts (Pension) Allahabad in this regard.

Ld. counsel for the respondents submits that the authorities have already taken a compassionate view by granting family pension and gratuity, however, other death benefits cannot be granted till the applicant obtains a decree from the Civil Court with respect to presumptive death.

4. Having heard the ld. counsel for both parties, I am of the view that once family pension and gratuity have been sanctioned in favour of the applicant, the respondents have accepted the fact that the applicant's husband, who was their employee, is presumed to be dead. Hence, the applicant would be entitled to all his death cum retiral benefits. It would now be incongruous to withhold the death benefits that the applicant is be eligible for.

5. Accordingly, a direction is issued to the respondents, specifically to the Respondent No. 2, to release legally admissible death benefits in respect of their ex-employee, Late Kamal Sah, in favour of the applicant, Smt. Sushila Shah, who is the widow of the ex-employee, in accordance with law, within a period of 3 months from the date of receipt of copy of this order.

6. The O.A is disposed of with the above directions. No costs.


(Tarun Shridhar)
Member (A)

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