

**CENTRAL ADMINISTRATIVE TRIBUNAL,
LUCKNOW BENCH,
LUCKNOW.**

Original Application No. 296 of 2011

Reserved on 21.8.2015

Pronounced on 02-09-2015

Hon'ble Mr. U.K. Bansal, Member-A

Smt. Jadia, aged about adult, widow of late Sri Rajdeo , R/o C/o Sri R.I. Vishwakarma, Finance Controller, U.P. Education for all Project, Vidya Bhawan, Nishat Ganj, Lucknow.

By Advocate : Sri ~~A. Meen~~ Praveen KumarApplicant

*Corrected on
11/12/15.
U.P. and*

Versus.

1. Union of India through the General Manager, Northern Railway, Baroda House, New Delhi.
2. The Chief Works Manager, northern Railway, Locomotive workshop, Charbagh, Lucknow.

.....Respondents.

By Advocate : Sri B.B. Tripathi

ORDER

The applicant, herein, is praying for payment of ex-gratia pension of her husband, who retired on medical grounds from service in the department of respondents as Casual Labour with temporary status on 7.3.1976 after put in 30 years of service. Her husband died on 11.12.2002.

2. It is the contention of the applicant that by circular issued by Railway Board RBE 19/98 dated 27.1.1998, her husband became entitled to grant of ex-gratia payment of pension w.e.f. 1.1.1997. However, this pension was not paid to him during his life time. Hence, this amount, which was due to her husband as ex-gratia payment should now be paid to her alongwith interest @ 12% per annum till the date of actual payment. It is also her contention that she is also entitled to ex-gratia payment of pension w.e.f. the date of demise of her husband i.e. 11.12.2002. This pension has also not been paid to her. In this connection, an order has been issued by the Chief Works Manager, Loco shop, Charbagh, Lucknow to the Senior A.F.A. dated 30.8.2010 by which ex-gratia pension has been sanctioned in her favour. A copy of this order is annexed as Annexure no.11 of the O.A. The applicant, therefore, prays that this amount of ex-gratia pension,

which stands sanctioned in her favour should be paid to her alongwith interest @ 12% per annum till the date of actual payment.

3. The respondents in their Counter Reply have not contested the basic facts of the case. It has been clarified that after issuance of the authority letter/order dated 30.8.2010, the Senior A.F.A. issued PPO dated 20.10.2010 to the concerned Bank for arranging the payment after completion of detailed internal formalities. It has also been submitted that the applicant's husband was prematurely retired from railway service on 7.3.1976. ~~Since~~ ^T The case is very old, it is not possible to trace-out any record relating to settlement of payment to the applicant's husband. As per the available records, the applicant's husband did not apply for grant of ex-gratia pension. Am

4. The respondents have made a reference to circular of DoP&T dated 22.3.2004 and in reference to the circular, it has been stated that ex-gratia pension was not admissible to those retired from service other than on attaining the age of superannuation. Since the applicant's husband had retired before the attaining the age of superannuation, he was not entitled to such ex-gratia pension. However, this circular is not annexed with the Counter Reply and could not be produced even during the course of hearing. During hearing, counsel for the respondents clarified that this circular was similar in content to RBE 19/98 mentioned above.

5. During the course of hearing, counsel for the applicant argued on the lines of his pleadings. The respondents' counsel stated that according to the contents of RBE 19/98, the applicant was not eligible for grant of ex-gratia pension. However, RBE 19/98 was closely examined by the Bench and he could not point out any clause by which the applicant became ineligible for ex-gratia pension.

6. The circular referred to by the applicant for grant of relief as prayed in the O.A. and for denial of relief is the same i.e. RBE 19/98; hence this circular was examined closely. Para 2 of this circular clearly states that ex-gratia pension is not admissible to Am

(a) those who were dismissed/removed from service; (b) those who resigned from service. Neither of these conditions would apply to the applicant. Para 3 states that arrears of ex-gratia payment will be payable w.e.f. 1.11.1997. The life time of arrears of ex-gratia payment will also be admissible in respect of SRPF (C) beneficiaries, who are alive on 1.11.1997 and died subsequent to that date for the period from 1.11.1997 to the date of death. The applicant is, therefore, squarely covered under this para. This order also prescribes in detailed procedure to be adopted for claiming this ex-gratia payment. Para 7(c) clearly states that if service book ^{is} ~~are~~ not available, checking of the claim should be conducted with the help of entries in the SRPF ledgers and the responsibility to determine the eligibility of the claimant with respect to his entitlement to receive ex-gratia payment has been clearly placed on the Head of the office or department concerned.

7. From the contents of RBE 19/98 and after careful examination of the pleadings and careful consideration of the arguments, it is found that the deceased husband of the applicant was eligible for grant of ex-gratia payment as sanctioned by this order w.e.f. 1.11.1997. It is also noted that the respondents have already sanctioned ex-gratia payment to the widow vide order dated 30.8.2010 keeping in view the direction of this Tribunal in O.A. no. 83 of 2006 and Railway Board's order dated 5.8.2010 and General Manager (P), New Delhi's order dated 19.10.2010. Hence, it is clear that the respondents have themselves accepted the fact that the deceased employee and after his demise, his widow is entitled to the claim for payment of ex-gratia pension. It is also noted that ex-gratia pension has been sanctioned w.e.f. the date of death of husband of the applicant. In these circumstances, the claim of the applicant is fully justified under the extant rules. The respondent nos. 1 & 2 are, therefore, directed as follows:-

(i) Ex-gratia payment of pension should be sanctioned to the applicant's husband for the period of his life time starting from 1.11.1997 upto 11.12.2002. This amount should be paid to the applicant alongwith 12% simple interest per annum calculating from the date of issue of circular i.e. 27.1.1998 till the date of actual payment;



(ii) The applicant should be paid ex-gratia pension alongwith such D.A. as admissible from time to time w.e.f. ~~12.12.2002~~ ²⁰¹² 2002 onwards as per the averments made by the respondents that a PPO has been issued in favour of the applicant on 20.10.2010. The applicant should be paid simple interest @ 12% per annum on the arrears arising out of this sanction for the period from 12.12.2002 to 20.10.2010 and it should be ensured by the respondents that the applicant is getting this pension regularly as of now.

The O.A. is accordingly allowed in the aforesaid terms. No order as to costs.



(U.K. Bansal)
Member -A

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Corrected
on 11/12/15
VRP. on p.
11/12/15

Corrected
on 13/5/16
VRP. on p.
13/5/16