

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

PATNA BENCH, PATNA

O.A. No. 398 of 1995

Date of order 16.7.1995

Most Sita Devi & another .. Applicants

-versus-

The Union of India & others .. Respondents

CORAM: Hon'ble Shri K.D. Saha, Member(A)

Counsel for the applicants .. Shri M.P.Dixit.

Shri S.Choubey

Counsel for the respondents -- Shri A.K. Tripathi

O R D E R

Hon'ble Shri K.D. Saha, Member(A):-

The wife and son of Late Butan, ex-Valveman under Chief Inspector of Works (for short "CIOW"), Patna, Danapur Division, Eastern Railway, have jointly filed this application. Their prayer is for direction to the respondents to appoint applicant No.2 (Binay Kumar) on compassionate grounds and to make ex gratia payment along with interest @ 20% since the employee died while on duty, as also payment of any other dues as admissible under the rules.

2. Written statement has been filed and the applicants have filed rejoinder.

3. The respondents submit that on receipt of application for appointment of applicant no.2 on compassionate grounds, he was asked to appear in a written test on 28.10.1995 and he has since been found suitable for appointment to a Group 'C' post. The respondents have published the



result of the Screening test for appointment to Group 'C' and 'D' posts on compassionate grounds vide Annexure-B dated 9.2.1996 to the written statement. The name of applicant no.2 is at Serial No.17 amongst the twenty candidates found suitable for appointment to Group 'C' posts.

The respondents further contend that the claim for ex gratia payment is not tenable since it could not be substantiated that the husband of applicant no.1 died while on duty.

It is also stated that after death of Late Butan, the following amounts payable to the widow and other legal heirs were passed for payment:-

- |                      |   |   |
|----------------------|---|---|
| (a) Family Pension   | - | Rs.525/-+IR   |
| (b) Provident Fund   | - | Rs.26976/-  |
| (c) DCRG             | - | Rs.25838/-(withheld due to not vacating the Rly.quarter). |
| (d) G.I.S.           | - | Rs.17650/-  |
| (e) Leave encashment | - | Rs.17975/-.   |

4. Mr. Dixit, learned counsel for the applicants, submits that from the joint enquiry report filed by the respondents, it is clear that Late Butan died while on duty but the respondents are denying the benefit of ex gratia payment on technical grounds. He further submits that applicants vacated Railway quarter on 1.3.1995 but the respondents have arbitrarily and illegally withheld DCRG amount and

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the Complimentary Railway Passes.

5. Admittedly, Late Butan was working as Valveman under CIOW, Patna, and he died in harness in an accident on 16.8.1994 while travelling by 3133 Up Ex-Patna near outer signal, Danapur. On the question of ex gratia payment, the submission of the respondents is that a joint enquiry by four Assistant Officers was conducted on 29.9.1995 to ascertain as to whether Late Butan died in the accident on 16.8.1995 while on duty or otherwise. It appears that the members of the Enquiry Committee examined Shri B.N.Mandal, CIOW, Patna, Shri Ram Swarup Pandit, Khalasi and Shri Satyanarayan, Fitter-II (both under CIOW, Patna) in course of the enquiry. The CIOW categorically stated that the deceased employee, who was availing rest on 15.8.1994 and 16.8.1994 as per the schedule of availing two rest days after five working days, was deputed by him on duty to Danapur Workshop to repair a defective spindle on 16.8.1994. This statement is corroborated by the statements of Shri Ram Swarup Pandit, Khalasi and Shri Satyanarayan, Fitter-II, as aforesaid, who were also involved in the matter of repairing the defective spindles. It is also evident from the report that the members of the Committee were of the opinion that Late Butan, ex Valveman came to Patna on 16.8.1995 and met CIOW, Patna, in connection with defective spindle at Rajendra Nagar Pump as he was residing in Rajendra Nagar, but they could not come to any conclusive proof as to whether Late Butan died on duty or otherwise since

certain official documents, etc. like Muster Roll-cum-Attendance Sheet, Work Deployment Register, Rest Abrogetting Letter to Late Butan, Special Duty Pass and Deployment Letter, etc. were found missing and were not produced before the Committee by the concerned staff.

However, from the facts and circumstances as given in the joint enquiry report dated 29.3.1995 (Annexure-A to the written statement), it is reasonable to hold that Late Butan, Ex Valveman was sent on duty to Danapur by CIOW, Patna, in connection with the repair of the defective spindles on 16.8.1995. The family of the deceased should not be penalised on technical grounds or because certain official papers/documents are found missing. In this view of the matter, the decision not to allow ex gratia payment to the family of the deceased Railway employee requires to be reviewed.

6. Since the applicants are stated to have vacated the Railway accommodation on 1.3.1995, there can be no reason to withhold payment of DCRG amount, as due and admissible under the rules.

7. For reasons discussed hereinabove, the following orders are passed:-

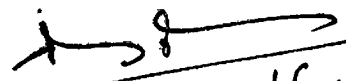
- (i) Applicant no.2, who has been declared suitable for appointment on compassionate grounds in Group 'C' post in terms of Annexure B dated 9.2.1996 to the written statement, should be given appointment in his turn, as per rules.

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(ii) Respondent no.2 (Divisional Railway Manager, Danapur, ~~Early~~.) shall review the decision with regard to ex gratia payment to the deceased Railway employee's family and pass appropriate order, as per rules, within three months from the receipt of copy of this order.

(iii) In case, the applicants have vacated the Railway quarter, payment of DCRG, as payable under the rules, should be arranged along with interest at the rate of 10 per cent per annum from the date of vacation of the quarter.

The application is disposed of accordingly with no order as to costs.

  
16.7.96  
(K.D. Saha)  
Member (Administrative)