

CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION NO.: 575/98

Date of Decision : 1.6.2000

Smt.L.N.Patkar Applicant.

Shri S.P.Inamdar Advocate for the  
Applicant.

VERSUS

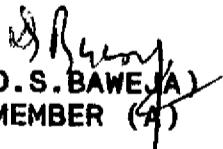
Union of India & Others. Respondents.

Shri V.S.Masurkar Advocate for the  
Respondents.

CORAM :

The Hon'ble Shri D.S.Baweja, Member (A)

- (i) To be referred to the Reporter or not ? P
- (ii) Whether it needs to be circulated to other Benches of the Tribunal ?
- (iii) Library P

  
(D.S.BAWEJA)  
MEMBER (A)

mrj\*

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH, MUMBAI

OA.NO.575/98

Thursday this the 1st day of June,2000

CORAM : Hon'ble Shri D.S.Baweja, Member (A)

Smt.Laxmibai Narayan Patkar,  
W/o Shri Narayan Ramchandra Patkar,  
R/o PO :Dhakore,  
Tahsil : Sawantwadi,  
Sindudurg Dist.-416 518.

... Applicant

By Advocate Shri S.P.Inamdar

V/S.

Union of India through

1. The Chief General Manager,  
Western Railway,  
Churchgate, Mumbai.
2. The Chief Works Manager,  
Western Railway Carriage Workshop,  
Parel Workshop, Lower Parel,  
Mumbai.

... Respondents

By Advocate Shri V.S.Masurkar

O R D E R (ORAL)

{Per: Shri D.S.Baweja, Member (A)}

This OA. has been filed by the applicant seeking Ex-gratia payment from 17.1.1996 when her husband died. The applicant is widow of late Shri Narayan Ramachandra Patkar who while working on Western Railway as Chargeman 'B' (Ticket No.1412) in Carriage Reparis Workshop, Parel, Mumbai resigned from service on 16.8.1978. He had joined Railway service on 17.1.1941

and therefore completed 37 years of service at the time of resignation. The late husband of the applicant was subscriber to the State Railway Provident Fund Account No.79947. The husband of the applicant had died on 17.1.1996. The applicant submits that she came to know that a widow is entitled for Ex-gratia payment in terms of Government of India O.M. dated 13.6.1988. She filed an application on the prescribed proforma along with necessary documents to Western Railway seeking Ex-gratia payment from the date of death of her husband, i.e. on 17.1.1996. However, the claim of Ex-gratia payment has been rejected as per the letter dated 19.2.1998. The respondents have rejected the claim of the applicant stating that the applicant is not entitled for Ex-gratia payment since her husband had resigned from service and had not retired which is a condition for eligibility as per the extant rules. Feeling aggrieved by this rejection of her claim, the present OA. has been filed on 13.7.1998 seeking the relief of ex-gratia payment treating the resignation as voluntary retirement.

2. The respondents have filed the written statement opposing the claim of the applicant for ex-gratia payment. The respondents at the out set have raised the objection that the OA. suffers from delay and laches since the cause of action arose in 1978 and the present application has been filed on 13.7.1998. On merits, the respondents submit that the applicant is not entitled for ex-gratia payment in terms of Railway Board's order dated 27.12.1988 as her late husband had resigned from service and not retired in the normal course.

3. The applicant has filed a rejoinder reply controverting the submissions of the respondents.

4. I have heard the arguments of Shri S.P.Inamdar and Shri V.S.Masurkar, learned counsel for the applicant and respondents respectively.

5. Before going into merits, the plea of delay and laches raised by the respondents will be considered. I am not inclined to accept this contention considering facts of the case. The husband of the applicant died in 1996 and the present OA. is filed in 1998 and there is not much delay.

6. On merits, during the hearing, the counsel for the applicant brought out that the similar issue has been recently decided in the case of Smt.Sumati Pandurang Padave vs. Union of India & Ors., OA.NO.671/99 by an order dated 4.5.2000. Copy of the order was produced during the hearing. It is noted that the counsel on either side in OA.671/99 were the same who are representing the present OA. On going through the order dated 4.5.2000, it is noted that the basic issue in this OA. was the same as in the present OA. that the applicant should be granted ex-gratia payment treating the resignation as voluntary retirement. It is further observed that the arguments made by the respondents in the present OA. are more or less the same as made in the OA.NO.671/99. In the order dated 4.5.2000, the

relief has been granted to the applicant for ex-gratia payment directing the respondents to treat the resignation as voluntary retirement relying upon the several earlier orders of Tribunal which have been also cited by the applicant in the present OA. the Supreme Court. After carefully going through this order, I am in respectful agreement with what is held in this order. In my opinion, the ratio of what is held in order dated 4.5.2000 applies on all fours to the present OA. Therefore, the applicant is entitled for the benefit of grant of ex-gratia payment by treating the resignation as voluntary retirement.

7. The counsel for the respondents, however, brought out that since the OA. has been filed only in 1998, the applicant cannot be entitled for the payment of arrears for the earlier period.

8. In view of the above deliberations, the OA. is allowed with the following directions :-

(a) The order dated 19.2.1998 is quashed. The respondents are directed to treat the resignation of the late husband of the applicant as notice of retirement. The applicant will be accordingly entitled for Ex-gratia payment from the date of death of her husband i.e. 17.1.1998. For processing the proposal for ex-gratia payment,

the applicant will have to comply with the relevant requirements as per the extant rules.

- (b) The applicant will be entitled for the payment of arrears of ex-gratia payment only from the date of filing of the OA. i.e. 13.7.1998.
- (c) The compliance of the order will be done within a period of four months from the date of receipt of this order.
- (d) No order as to costs.

  
(D.S. BAWEJA)

MEMBER (A)

 mrj.