

CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

ORDERS OF THE BENCH


Date of Order: 24.09.2013

QA No. 362/2012


Mr. Pradeep Asthana, counsel for applicant.
Mr. M.K. Meena, counsel for respondents.

Heard learned counsel for the parties.

Original Application is disposed of by a separate order
on the separate sheets for the reasons recorded therein.



(ANIL KUMAR)
ADMINISTRATIVE MEMBER



(DR. K.B. SURESH)
JUDICIAL MEMBER

Kumawat

CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

ORIGINAL APPLICATION NO. 362/2012

DATE OF ORDER: 24.09.2013

CORAM

HON'BLE DR. K.B. SURESH, JUDICIAL MEMBER
HON'BLE MR. ANIL KUMAR, ADMINISTRATIVE MEMBER

Smt. Susheela W/o late Shri Surendra Kumar, aged about 32 years, R/o Radha Bari, Post Radha Chhoti, Tehsil Rajgarh, District Churu, Rajasthan.

...Applicant

Mr. Pradeep Asthana, counsel for applicant.

VERSUS

1. Union of India through General Manager, West North Railway, Headquarter at Jawahar Circle, Near Jagatpura, Jaipur (Rajasthan).
2. Chief Personnel Officer, Office of the General Manager, West North Railway Headquarter at Jawahar Circle, Near Jagatpura, Jaipur (Rajasthan).

...Respondents

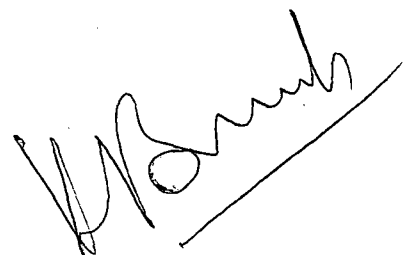
Mr. M.K. Meena, counsel for respondents.

ORDER

(Per DR. K.B. SURESH, JUDICIAL MEMBER)

Heard the matter in great detail.

2. The respondents have explained the events, which took place on the unfortunate day. In their reply, it appears that the applicant, a Government employee, was continuing travelling by train in the course of duty and at one point of time, he while crossing the railway line to have his food apparently had been hit by the goods train and he died. The food, which were to be normally given incised the train could not be given for some administrative reason and all were directed to have food in the plat form.



3. The court of enquiry held that the applicant died during the course of his employment and directed benefits to be granted to the dependent of the deceased but the Chief Personnel Officer disagreed with the decision, apparently on consideration of Board's letter No. E(W)9/CP-1/1, dated 05.11.1999 and after amendment vide letter dated 02.09.2008, held that the applicant is not entitled to ex-gratia benefits. But clause (a) of the aforesaid letter stipulates that 'death occurring due to accidents in the course of performance of duties, the dependent(s) of deceased Railway servants are eligible for ex-gratia benefits.

4. Admittedly, when the applicant was asked to go on duty, and he was crossing the railway line, the same is the part of his duty. When he was crossing the railway line even by negligence the concept of duty will not be diminished even then he is on duty as he was continuously traveling by train on duty, as is revealed from the reply statement. If at all any contributory negligence to be attributed, it is to be noted that he was under continuous duty for weeks together. Therefore laches are on the part of the Railway.

5. We, therefore, have no hesitation to hold that the applicant is entitled to ex-gratia benefits. This amount will be calculated with the interest thereof at the rate of whatever is being granted in the General Provident Fund. This exercise shall be done within next two months and payment with full interest be made available within the time frame.



6. Needless to say that the dependent of the deceased will be entitled to be considered for compassionate appointment. This shall also be done within the next three months.

7. The Original Application is allowed to these extent indicated herein above. No order as to costs.

Anil Kumar

(ANIL KUMAR)
ADMINISTRATIVE MEMBER

Dr. K.B. Suresh

(DR. K.B. SURESH)
JUDICIAL MEMBER

kumawat