

**CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH, AHMEDABAD.**

OA No.275/2016 with MA No.54/2016

This the 25th day of October, 2018

Smt. Kamlaben A. Solanki
W/o. Late Shri Ambalal Solanki
Aged 55 years
Residing : A-59, Chitrangar Society,
Danteshwar, Pratapnagar Road
Vadodara 390 004. Applicant

(By Advocate : Ms. S.S.Chaturvedi)

VERSUS

1. Union of India,
Notice to be served through
General Manager
Western Railway,
Churchgate, Mumbai 400 020.
2. Divisional Railway Manager (E)
Western Railway, Pratapnagar
Baroda 390 004.. Respondents.

(By Advocate : Shri A.L.Sharma)

ORDER – ORAL

Per : Hon’ble Shri M.C.Verma, Member (J)

Instant OA has been preferred by widow of Late Shri Amba Lal Solanki, deceased employee of the respondents, pleading that her husband was in the service of respondent, was posted as Shunting Master at KRCA Station and he died, on 23.3.2013, when was on duty at Karchiya Yard, Vadodara. That he was taken to health Unit of Vadodara where he was declared dead and was sent to SSG, Hospital at Baroda for post mortem and post mortem report revealed that he sustained cardiac arrest. It has been alleged by the applicant that her husband died while performing official duties, timely medical aid was not provided and had medical aid was provided in time, he would survive. That as per ex-gratia compensation policy she is entitled for ex-gratia compensation and after death she was also given help by giving advance to the tune of Rs. 15,000-/ but later on, at the time of final settlement of dues of her deceased husband that amount was also recovered. That on 18.9.2013 she gave application to respondents, for ex-gratia compensation but same has not yet been decided and hence is this OA. Instant OA, annexing with it copy of post mortem report, Annexure-A-1, copy of death certificate dated 23.3.2013 issued by Sr. D.M.O.,

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Railway Hospital, Vadodara about cause of death and copy of Death Certificate dated 06.04.2013 issued by Municipal Corporation, Vadodra as Annexure A-2 & Annexure A-3, copy of interim relief Order as Annexure A-4, copy of order of final settlement & PPO as Annexure A-5 & Annexure A-6 and copy of her application, dated 18.09.2013, given to respondents, for ex-gratia compensation as Annexure A-7. Instant OA was preferred on 09.12.2015, with MA No. 54/2016, an application for condonation of delay.

2. Respondents have filed their reply. The factum of death of the husband of applicant, during duty hours has not been denied by the respondents. The case of the respondents as has been put forward by them in reply is that the death of husband of applicant occurred due to Myocardial Infarction (Heart Attack), it was a natural death and was not an accidental death covered by the policy of ex-gratia compensation. Though it was specifically pleaded in OA by the applicant that she gave application to the respondents for ex-gratia compensation and that is still pending but there is no averment from the side of the respondents in their reply whether they received any such application and if application was received, same is still pending or has been disposed of.

3. While pressing the OA and MA No.54/2016, an application for condonation of delay, learned counsel, Ms. S. S. Chaturvedi submits that Application for ex-gratia compensation was given on 18.09.2013, and the OA was preferred on 29.01.2016 and hence as per Section 21 of the Administrative Act, 1985, there is some delay but the applicant was under hope that respondents would consider her case sympathetically and outcome would be in her favor so she waited for some time. Learned counsel urged that applicant is a poor widow and in interest of justice delay may be condoned. Said MA has though been opposed but not seriously by respondents. In view of explained circumstances, delay is condoned. MA No. 54/2016 stands disposed of.

4. As far merits of the OA relate, learned counsel, Ms. S. S. Chaturvedi contended that husband of applicant, if had been provided timely medical aid, would survive and that it is a case of accidental death. She placed reliance on decision of Hon'ble High Court of Kerala reported in **II (1985) ACC 354** & decision dated 27.05.2015 passed by of Hon'ble High Court of Delhi in W.P.(C) 3527/2013 in case having titled ***Ramdevi Vs Director BSF &Ors.***

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5. Learned Counsel for respondent disputed the submission that case of applicant is covered by *ratio decendi* of decisions relied upon by applicant. He urged that the death appears to be natural. He claimed ignorance as to whether the applicant has preferred application to the respondents for ex-gratia and that is still pending, however, he admitted that had any such application was given, said application ought to have been disposed of, he offered that if respondent be given opportunity said application, if has been filed by applicant would be considered and would be decided at the earliest possible. Learned counsel, at this stage intervened and urged that it was specifically pleaded by the applicant, in OA that she gave application to the respondents for ex-gratia compensation and same is still pending but there is no averment from the side of the respondents touching this aspect, in their reply, and the fact being uncontroverted evidently shows that applicant has preferred application for ex-gratia compensation. She added that she is having no objection if respondent is given opportunity to consider and take decision on said application.

6. It is case of ex-gratia compensation claimed by the widow of the applicant. In view of this position, as has emerged on conclusion of submissions made by counsels, representing the

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parties, it deems appropriate that without going to enter into the merit of the OA, it would be appropriate to give opportunity to the respondents to consider and decide the application, dated 18.9.2013, of applicant given to respondent for grant of ex-gratia compensation. This OA thus is disposed off with direction to the respondents to decide above said application, dated 18.9.2013 of applicant, within two months from the date of receipt of copy of this order. Needless to say, that decision so taken shall be communicate to the applicant within two weeks thereafter. For sake of brevity it clarified herein that no excuse of respondents that no such application was given or that application is not on their record, shall be entertained and if, in fact they did not find the original application on their record they may proceed on the basis of its copy, already supplied to them as Annexure A-7 of instant OA.

7. With the above directions, the OA stands disposed of. No order as to costs.

(M.C.Verma)
Member (J)