

**CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH**

**O.A. No. 2649/2015**

New Delhi this the 23<sup>rd</sup> day of July, 2015

**HON'BLE MR. G. GEORGE PARACKEN, MEMBER (J)  
HON'BLE MR. SHEKHAR AGARWAL, MEMBER (A)**

Smt. Malti Devi  
W/o Late Anand  
Aged about 55 years,  
Ex-Grinderman  
R/o 173/F, Railway Colony,  
Punjab Lane,  
Ghaziabad (UP). ...Applicant

(By Advocate: Shri Manjeet Singh Reen)

Versus

Union of India & Others : through

1. The General Manager,  
Northern Railway,  
Baroda House,  
New Delhi-110001.
2. The Divisional Railway Manager,  
Northern Railway,  
State Entry Road,  
New Delhi. ...Respondents

**O R D E R (O R A L)**

**G. George Paracken, Member(J)**

The applicant has filed this O.A seeking the following reliefs:-

"(i) That this Tribunal may graciously be pleased to direct the respondents to examine

the case of the applicant in the light of judgment of this Tribunal in Smt. Binko Devi as well as Smt. Mangla Devi's case with all consequential benefits.

(ii) That this Tribunal may graciously be pleased to direct the respondents to paid the interest in the light of own Railway Board circular dated 05.11.1999 as well as this Tribunal's judgment in the cases of Smt. Binko Devi as well as Smt. Mangla Devi's with all consequential benefits.

(iii) That the Tribunal may graciously be pleased to direct the respondent to examine and decide the pending representation dated 08.06.2015.

(iv) That any other or further relief which this Tribunal may deem fit and proper under the circumstances of the case may also be granted in favour of the applicant.

(v) That the cost of the proceedings may also be awarded in favour of the Applicant".

2. The applicant has submitted that before approaching this Tribunal, he has made a representation dated 22.06.2015 for grant of aforesaid reliefs. However, the respondents have not considered his representation. He has therefore, approached this Tribunal seeking the aforesaid reliefs.

3. Contention of the learned counsel for the applicant is that his case is squarely covered by the DOP&T's OM No. 45/55/97-P&PW(C) dated 11.09.1999. Operative part of the said order reads as under :-

"5. In supersession of all earlier orders issued by Government as well as by individual ministries and departments in so far as these relate to the payment of ex-gratia lumpsum compensation in certain specified circumstances, the President is pleased to decided that families of Central Government Civilian Employees who die in harness in the performance of their bonafide official duties under various circumstances shall be paid the following ex-gratia lumpsum compensation:

(a) Death occurring due to accidents in the course of performance of duties. - Rs. 5.00 lakhs

(b) Death occurring in the course of performance of duties attributable to acts of violence by terrorists, anti-social elements, etc. - Rs.5.00 lakhs

(c ) Death occurring during (a) enemy action in international war or border skirmishes and (b) action against militants, terrorists, extremists etc. - Rs.7.50 lakhs"

4. Learned counsel has also submitted that aforesaid policy has been adopted by the Railway vide Railway Board's Circular No. 285/99 dated 05.11.1999. The said order is also reproduced as under :-

"R.B.E. No. 285/99

Subject : Payment of Ex-Gratia lumpsum compensation to families of Railway employees.

The question of rationalization and further liberalization of the existing schemes and guidelines regarding Ex-gratia lumpsum compensation to families of Civilian Govt.

employees had been engaging the attention of the Government. In supersession of all earlier orders issued by the Govt. in so far as these relate to the payment of ex-gratia lumpsum compensation in certain specified circumstances. President is pleased to decide that the families of Central Government Civilian employees who die in harness in the performance of their bona fide official duties under various circumstances shall be paid ex-gratia lumpsum compensation as per Department of Pension & Pensioners Welfare, Ministry of Personnel, Public Grievances and Pensionsletter No.45/55/97-P&PW) dated 11th September, 1998.

Ministry of Railways have decided that the above orders (copy enclosed) of the Govt. shall be applicable to the Railway Servants mutatis mutandis.

This issues with the concurrence of Finance Directorate of Ministry of Railways."

5. He has also submitted that the issue has already been considered by this Tribunal vide O.A No. 1917/2010-Smt. Binko Devi & Ors. Vs. Chairman, Railway Board and Ors., and decided on 28.09.2010. The said order being short is also reproduced as under :-

" Rules in question are accordingly interpreted in a different context by the High Court in UOI & Ors. Vs. Smt. Hira Rani (WP (C) No. 4879/2007) by order an order dated 16.08.2010 wherein it is held that ex-gratia payment of Rs.5,00,000/- paid to applicant be not adjusted from the compensation payable to her under the Workmen's Compensation Act. Accordingly, the claim of the applicant, as no more res integra, is allowed in terms of the decision of the High Court in Smt. Hira Rani's case (supra) with a

direction to the respondents to release the deducted amount with simple interest @ 9% within a period of two months from the date of receipt of a copy of this order. It goes without saying that the main amount, which has been withheld by the respondents without any basis and the reasonableness and also entails interest as stated above, be paid to the applicant. No costs."

6. Again, he has drawn attention of the recent judgment of this Tribunal in O.A No. 3390/2012 – Smt. Mangla Devi Vs. Chairman Railway Board and Ors. in which this Tribunal has considered the aforesaid policy of the Railway Board. The operative part of the said order reads as under:-

" 5. The learned counsel for the applicant submits that the policy of payment of ex-gratia lumpsum compensation to families of Central Government civilian employees, who die in harness, was approved and adopted by the respondent-Railways vide RBE No.285/99, dated 05.11.1999, and since the husband of the applicant died on 12.05.1999, the respondents required to pay the ex-gratia amount of Rs.5,00,000/- to the applicant by 12.08.1999, i.e., within three months from the date of death as per the policy guidelines. However, the respondents out of the said amount of Rs.5,00,000/-, paid Rs.3,40,200/- on 25.10.2010 and paid the balance of Rs.1,59,800/- on 29.03.2012. Hence, the applicant is entitled for interest on the said delayed payments at the rate of 12 per cent per annum.

6. The learned counsel further submits that this Tribunal by its Order dated 28.09.2010 in OA No.1917/2010 in Smt. Binko Devi and Others v. Chairman, Railway Board and Others in the similar circumstances, directed the respondents to release the deducted

amount with interest at the rate of 9 per cent.

7. Per contra, the learned counsel for the respondents submits that the ex-gratia compensation is paid only in the cases where death of the employee concerned occurred in the actual performance of a bonafide official duties. The husband of the applicant was posted as Safaiwala and he died not while performing his assigned duties, but as a result of an accident while boarding a train, which act is no way connected to his official duty. After obtaining necessary clarifications to the effect that the deceased was deputed to deliver SPTM machine to Divisional Office, as there was no staff to do the said work, and after obtaining all the necessary approvals an amount of Rs.3,40,200/- was paid to the applicant on 25.10.2010, after deducting the amount of Rs.1,59,800/- which was paid under the Workmens Compensation Act, out of the total ex-gratia amount of Rs.5,00,000/- as per the instructions in force at that time. The said instructions were revised by Railway Board on 10.01.2011, i.e., not to deduct the amount paid under the Workmens Compensation Act, out of the ex-gratia compensation, and accordingly the deducted amount of Rs.1,59,800/- was paid on 29.03.2012. Hence, there is no willful delay in payment of the ex-gratia amount and whatever delay occurred is due to the administrative necessity in ascertaining the true facts about the death of the husband of the applicant, and hence, the respondents are not liable to pay any interest, for any period, on any amount.

8. Admittedly, the respondent-Railways have adopted the policy of payment of ex-gratia lumpsum compensation to its employees vide RBE No.285/99 dated 5.11.1999. Since the husband of the applicant died on 12.05.1999, she is entitled for the ex-gratia of Rs.5,00,000/- as per

Rules, within a reasonable time, w.e.f. 05.11.1999. However, the respondents out of the said amount of Rs.5,00,000/-, paid Rs.3,40,200/- on 25.10.2010 and paid the balance amount of Rs.1,59,800/- on 29.03.2012. Since the policy was adopted by the respondents on 05.11.1999 and since the applicants husband admittedly died while not discharging his regular duty of Safaiwala, but in an accident while boarding a train, the explanation of the respondents that in obtaining necessary information and clarifications and due to the said bonafide administrative procedure delay occurred can be accepted only for a reasonable period of six months, but not beyond. The respondents miserably failed in satisfactorily explaining the inordinate delay of about 10 years, in payment of the ex-gratio. Further, even as per the respondentsthemelves, the revised instructions for not deducting the amount paid under the Workmens Compensation Act, out of ex-gratia was issued on 27.01.2011 but the respondents paid the deducted amount of Rs.1,59,800/- only on 29.03.2012.

9. The Honble High Court of Delhi in WP No.4897/2007 (Union of India & Others v. Smt. Hira Rani) declared that the action of authorities in deducting any amount paid under the Workmens Compensation Act, from the ex-gratia payment payable under the policy is illegal, and accordingly the respondents issued the revised guidelines in the year 2011. In the similar circumstances, and in compliance of the orders of this Tribunal in Binko Devi case (supra), the respondents paid interest on the deducted amount, for the delayed period.

10. Accordingly, and in the circumstances, the OA is allowed, and the impugned order dated 9.07,.2012 is set aside, and the respondents are directed to pay interest at the rate of 9 per cent per annum on the

amount of Rs.5,00,000/- w.e.f. the date of expiry of 6 months from 05.11.1999, i.e., the date of issuance of RBE No.285/99 to 25.10.2010, and on Rs.1,59,800/- from 25.10.2010 till 29.03.2012, to the applicant. This exercise shall be completed within three months from the date of receipt of this order. In view of these orders, no orders are necessary in MA NO.2088/2013, filed by the respondent No.1 to delete from the array of respondents, and accordingly, the same is disposed of. No order as to costs."

7. In view of the above submissions made by the learned counsel for the applicant, we dispose of this O.A with a direction to the respondents to examine the case of the applicant in the light of the aforesaid OM of the DOP&T, dated 11.09.1999, Railway Board's Circular No. 285/99 and the order of this Tribunal in O.A 1917 of 2010 and 3390/2012 (supra). If her case is covered by them, she shall also be given the same benefits. The respondents shall also pass an appropriate order under intimation to her within a period of two months from the date of receipt of a copy of this order. There shall be no order as to costs.

**(SHEKHAR AGARWAL)**  
**MEMBER (A)**

**(G. GEORGE ARACKEN)**  
**MEMBER (J)**

/Mbt/