

Central Administrative Tribunal
Principal Bench

OA No.3847/2015
MA No.3516/2015

Reserved on: 06.03.2017
Pronounced on:20.03.2017

Hon'ble Mrs. Jasmine Ahmed, Member (J)

Mrs. Raj Kumari
W/o late Sh. Gulshan Kumar,
Senior Electric Turner under SSE/Loco/Delhi,
Delhi JN. (Rly Stn.),
R/o H.No. 12/283, Javahar Nagar,
New Railway Road, Gurgaon (Haryana). ...Applicant

(By Advocate: Sh. A.K. Wahi with Sh. M.R. Sinha)

Versus

1. Union of India through its
General Manager (P),
Northern Railway, Head Quarter Office,
Baroda House, New Delhi.
2. The Divisional Railway Manager,
Northern Railway, State Entry Road,
New Delhi.
3. The Senior D.P.O.,
DRM Office, State Entry Road,
New Delhi.
4. The Senior Section Engineer (Loco),
Northern Railway, Loco Shed,
Delhi JN. ...Respondents

(By Advocate: Shri Kripa Shankar Prasad)

O R D E R

By way of the instant Original Application filed under
Section 19 of the Administrative Tribunals Act, 1985, the
applicant has prayed for the following relief(s):-

- “(i) *Direct the respondents to pay to the applicant interest @ 18% p.a. on the amount of Rs.10 lacs that was paid to her with effect from the date when the same were due and payable to her that*

is after three months from the date of death of her husband on 25.04.2008.

- (ii) Direct the respondents to pay to the applicant an amount of Rs.5 lacs for mental & physical harassment meted to her by the respondents;*
- (iii) Grant cost and expenses of the OA in favour of the applicant; and /or*
- (iv) Grant any other relief or reliefs as may be deemed just and proper in the facts and circumstances of the case by this Hon'ble Tribunal."*

2. The brief factual matrix of the case is that the husband of the applicant died in harness on 25.04.2008. After his death, the applicant is getting family pension and the respondents have also released all other retiral dues to her. Even the ex gratia lumpsum amount has also been paid to the applicant on 03.11.2014 after a delay of 6½ years. The sole question to be decided in this case is whether the applicant is entitled for any interest on the delayed payment of ex-gratia amount.

3. Learned counsel for the applicant, in this regard drew my attention to RBE No.136/2008 dated 30.09.2008 (page 19 of the paper book) issued by the Government of India, Ministry of Railways, the subject of which is 'Payment of ex gratia lumpsum compensation to the families of railway employees who die in harness in performance of *bona fide* official duties. Learned counsel also drew my attention to column (a) of the said letter, which speaks about payment

of ex gratia lumpsum amount where death occurring due to accident in the course of Rs.10 lacs performance of duties. In column no.2 of the said letter, it is stated that 'these orders are applicable in the case of railway servants who die in harness on or after 01.01.2006'. It is undisputed that applicant's husband died on 25.04.2008 i.e. much after 01.01.2006. In this regard, counsel for the applicant also drew my attention to RBE No.71/2007 dated 01.05.2007 (page no.20 of the paper book) issued by the Government of India, Ministry of Railways, Railway Board, para no.4 whereof reads thus:-

"4. The cases should be settled within the maximum period of three months as provided for in the instructions so as to cause minimum hardship to the claimants, and should be subject to careful examination with reference to the extant instructions, conditions, etc."

4. Counsel for the applicant states that as per the instructions contained in RBE No.71/2017, all the cases for payment of ex gratia compensation to the families of deceased employees shall be decided within three months from occurrence of death of deceased employees. He further states that after the death of applicant's husband, the respondents issued PPO No.0108020622, vide letter dated 31.08.2009 (page 22 of the paper book), and the applicant is getting regular pension. He also drew my attention to a document/letter dated 02.05.2008 written by the Divisional

Personnel Officer (Page 16 of the paper book) for settlement of the dues of the deceased employee. Here, in the columns filled in, it is categorically written that cause of death is 'accidental on duty' and the settlement case number is also provided there. The said letter is also shown to have been forwarded to other officers for information and necessary action. Counsel for the applicant also states that after the death of applicant's husband, the applicant provided all the required documents to the respondents for grant of ex gratia payment, but the respondents paid the ex gratia payment to the applicant only on 03.11.2014 i.e. after a delay of 6½ years from the date of death. He further submits that the applicant gave a representation dated 18.05.2010 to the respondents, which was received by them on 28.05.2010 wherein she has categorically stated that for more than two years from the date of occurrence of accident, she has not been paid the ex gratia amount and with that letter she attached the attested copy of death certificate of her husband with a copy of Death Notification issued by the Northern Railway. Counsel for the applicant also states that when the applicant did not get any reply/response to her letter dated 18.05.2010 from the respondents, she gave another representation dated 10.01.2012, which was also received by the respondents on

the same very day, stating therein that a period of more than three years has been passed from the date of occurrence of death of her husband and irrespective of her previous representation, the respondents have not taken any action to release the ex gratia amount to her. With the above representation, she again attached the attested copy of the death certificate of her husband, death notification issued by the Northern Railway and also a copy of her previous representation. Counsel for the applicant also states that the respondents again asked for few documents from the applicant vide letter dated 10.04.2012 which she immediately submitted vide her letter dated 12.04.2012. Despite receipt of required documents, the respondents took more than 2½ years to release the ex gratia payment to the applicant. Counsel for the applicant further states that it is the respondents own rules which speak about settlement of ex gratia payment within three months from the date of occurrence of death of deceased employee, who die in harness. As the respondents have taken a long period of 6½ years in releasing of ex gratia payment to the applicant, she is, therefore, entitled to interest on the delayed payment of ex gratia payment.

5. Per contra, counsel for the respondents states that there is no fault on part of the respondents in releasing the

ex gratia payment, rather the fault lies on part of the applicant as she herself submitted the required documents only on 12.04.2012 and thereafter the respondents released the ex gratia payment on 03.11.2014.

6. Counsel for the respondents also states that there is no delay on part of the respondents as they have already paid the leave encashment, CGEIGS, Gratuity and Provident Fund amount to the applicant between 2008 and 2009. He further states that since the formalities to be fulfilled were delayed by the applicant herself, the alleged delay was not intentional on part of the respondents. Hence, the respondents cannot be held responsible for the delay in releasing ex gratia payment, as alleged by the applicant. Learned counsel for the respondents vehemently argued that the applicant is not entitled to the interest on the delayed payment of ex gratia amount, as prayed for.

7. Heard the contentions of rival parties and perused the records.

8. The issue involved in this case is very simple as it relates to grant of interest on the delayed payment of ex gratia amount. Though the learned counsel for the respondents has stated that it is the applicant who delayed in submission of the requirement documents, but I found

from the records that the Divisional Personnel Officer, New Delhi, vide his letter dated 02.05.2008, has already decided the cause of death as 'accidental on duty' and also provided the applicant's case number and CG case number and the said letter was forwarded to the authorities concerned for information and taking necessary action in the matter. It is also seen that on the knowledge of death of the deceased employee, the PPO had been issued to the applicant for grant of family pension. The only contention of the learned counsel for the respondents is that the applicant herself has delayed in submission of proper documents which contributed to the delay in releasing the ex gratia payment.

9. Perusal of the records reveals that the applicant wrote a letter dated 18.05.2010 to the respondents for grant of ex gratia payment, which was received by them on 28.05.2010. When the applicant did not receive any response/reply to her letter dated 18.05.2010, she again sent a reminder on 01.01.2012 to the respondents, which was received by them on the same very day, and the respondents, in turn, wrote a letter to the applicant for submission of few documents, which the applicant immediately submitted on 12.04.2012 to the respondents. From these documents, it is clear that the applicant, from the beginning, has given all the information about her

husband's death and on the basis of the said information only, a letter dated 02.05.2008 was written by the Divisional Personnel Officer for information and necessary action in the matter. But it is not understandable that despite receipt of the required documents from the applicant on 12.04.2012, why more than 2½ years time was taken by the respondents in releasing the ex gratia amount to the applicant.

10. Taking into account the contentions raised by the parties and having perused the pleadings, I am of the considered view that the respondents are at least responsible for the delay of 2½ years in making the payment of ex gratia amount to the applicant. Accordingly, in the interest of justice, I allow the instant OA and direct the respondents to pay interest @ 8% per annum to the applicant on the delayed payment of ex gratia of Rs. 10 lacs for 2½ years w.e.f. 12.04.2012 till the actual payment was made i.e. 13.04.2014, within a period of three months from the date of receipt of certified copy of this order. There shall be no order as to costs.

(Jasmine Ahmed)
Member (J)

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