

CENTRAL ADMINISTRATIVE TRIBUNAL
KOKATA BENCH, KOLKATA

O.A./350/00488/2016

Orders Reserved on : 20th Nov., 2017
Date of orders : 24th Nov., 2017CORAMHON'BLE MRs. BIDISHA BANERJEE, MEMBER (J)
HON'BLE JAYA DAS GUPTA, MEMBER (A)

Smt. Manju Ghosh, wife of late Sital Chandra Ghosh as house wife, aged about 53 year, residing at Vill. - Bhota, PO - Kamarkunduk, PS - Singur, Dist. Hoogly, Pin - 712123.applicant

By Advocate : None.

Versus

1. Union of India, service through the General Manager, Eastern Railway, Fairlie Place, Kolkata - 700001.
2. Divisional Railway Manager, Eastern Railway, Howrah Division, Howrah-1.

.... Respondents.

By Advocates: Mr. B.K.Roy

ORDER

Per Bidisha Banerjee, Member (J):- Since none appeared for the applicant today as also on several occasions earlier, we invoke Rule 15[1] of the CAT [Procedure] Rules, 1987 to decide the matter on the basis of pleadings.

2. In this OA, the applicant has prayed for consideration of representation dated 16.08.2015 and disbursement of lump-sum ex-gratia compensation to the tune of Rs. 15 lakhs as per Railway Board's circular dated 25.01.2011, and extension of benefit of the decision rendered in OA 1921/2015, vide order dated 18.02.2016.
3. Since benefit has been sought for of Railway Board's circular dated 25.01.2011, we though it fit to delve into the text of the said circular. The circular clearly stipulates that the payment of ex-gratia lump-sum compensation to the family of Railway employees who die in harness on duty, as effective from

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01.08.1997. However, text of the said circular is extracted verbatim hereinbelow with applied emphasis for clarity –

"Estt. Srl. No.022/2011

No. P/W/16/Misc.

Sub. : Payment of Ex gratia lumpsum compensation to families of Railway employees who die in harness on duty.

Ref. : Railway Board's letter Nos.

[i] E[W] 2008/CP-1/7 dated 30.09.2008

[Estt. Srl. No. 155/08]

[ii] E[W] 99/CP-1/1 dt. 05.11.1999

[iii] E[W] 99 CP-1/1 dt. 09.02.2000

[Estt. Srl. No. 51/00]

Railway Board's letter No. E[W]2007/CP-1/37 dated 10.01.2011

[RBE No.04/2011] is as under –

In partial modification of this office letter No. E[W] 99/CP-1/1 dated 09.02.2000, the clarification that the compensation payable under Workmen's Compensation act [WCA] should be reduced from the lump sum amount payable as Ex-gratia compensation is hereby withdrawn. However, aggregate of the relief/Ex-gratia compensation paid from different sources of workmen compensation , viz. compensation under WCA, compensation under Section 124 of the Railway Act, 1989 as applicable, etc. is subject to the ceiling laid down in para 12 of Annexure to Department of Pension & Pensioners Welfare's OM No.45/55/97-P&PW[C] dated 11.09.1998 circulated vide Board's letter No.E[W]99 CP-1/1 dated 05.11.1998 as amended vide letter No.E[W]2008/CP-1/7 dated 30.09.2008 notifying revised rates of compensation w.e.f. 01.01.2006. These orders are effect from 01.08.1997.

2. Sanction is also communicated to revision of the ceiling on aggregate amount mentioned in Para 12 of Annexure to the DOP&PW's OM dated 11.09.1998 ibid referred to above from Rs. 10 lakh to Rs. 20 lakh in each individual w.e.f. 01.01.2006.

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

4. Learned counsel for the respondents on the contrary invited our attention to RBE No.4/2011, which is identically benefitting the families of Railway employees who died in harness while on duty, but from 01.01.2006. It reads as under –

"Copy of Railway Board's letter No.E[W]2007/CP-1/37 dated 10.01.11 [RBE No.04/2011] addressed to all General Managers & Pus etc.

Sub : Payment of ex-gratia lumpsum compensation to the families of Railway Employees who die in harness on duty.

Ref.: Board's letter No.E[W]99/CP-1/1 dtd. 06.11.99.[RBE No.285/99].

In partial modification of this office letter No.E[W] 99/CP-1/1 dated 09.02.2000, the clarification that the compensation payable under Workman's Compensation Act [WCA] should be reduced from the lump-sum amount payable as Ex-gratia compensation is hereby withdrawn. However, the aggregate of the relief/ex-gratia compensation under WCA compensation under Section 124 of the Railways Act, 1989 as applicable, etc. is subject to the ceiling laid down in para 12 of Annexure to Department of Pension & Pensioner's Welfare OM No.45/55/97-P&PW[C] dated 11.9.98 circulated vide Board's letter No.EW]99 CP-1/1 dated 05.11.99 as amended vide letter No.E[W] 2008[CP-1/7 dated 30.09.2008 notifying revised rates of compensation w.e.f. 01.01.2006. These orders are effective from 01.08.1997.

2. Sanction is also communicated to revision of the ceiling on aggregate amount mentioned in para -12 of Annexure to the DOP & PW's OM dated 11.09.98 *ibid* referred to above from Rs. 10 lakh to Rs. 20 lakh in each individual case w.e.f. 01.01.2006.

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

Sd/-

[Debasis Mazumder]
Jt. Director Estt.[Welfare]
Railway Board"

5. Drawing our attention to paragraph 2 thereof, learned counsel submitted that family of only such persons where the death took place on or after 01.01.2006, would be entitled to get the benefit, and therefore, since the husband of the applied died on 05.06.1999, the benefit of the circular would not be available to her.

6. We considered the matter in entirety, and perused the materials on record.

7. Inasmuch as the revised ceiling of Rs. 10 lakh to Rs. 20 lakh is available only from 01.01.2006, whereas the present case is of 1999, the said revised ceiling will not apply to the present case, *ad. h.* Inarguably and indubitably, the employee suffered an accidental death on 05.6.1999 while performing official duty.

8. The respondents have disclosed the following :

“As per para 5[a] of department of Pension & Pensioner’s Welfare’s O.M. dated 11.09.98 circulated vide Railway Board’s Circular RBE No.285/99, amount of compensation to be paid in case of death occurring due to accidents in the course of performance of duties is Rs. 5,00,000/- and that as per Railway Rule, ex-gratia lumpsum compensation to the tune of Rs. 5,00,000/- has been distributed amongst the legal heirs of Sital Chandra Ghosh, Ex-KH, Helper/SE/ACC/HWH, and paid as under –

Sl. No.	Name of Legal Heir of ex-employee	Relationship with the ex-employee	Cheque No. & Date	Amount	Cheque received on
1.	Smt. Manju Ghosh	Widow	602166	Rs.250000/-	18.8.2015
2.	Jhuma Ghosh	Unmarried Daughter	702167	Rs.250000/-	18.8.2015

9. The applicant has failed to controvert the same by way of a rejoinder.

10. In view of the foregoing discussions, since no case for granting any further relief is made out, the OA is dismissed.

11. No costs.

[Jaya Das Gupta]
Member (Admn.)

mps/-

[Bidisha Banerjee]
Member (Judicial)