

**CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH**

Original Application No.306/2017

Date: 14.10.2019.

CORAM:

Hon'ble SH.M.C.Verma, Member (J)

Smt. Imbavali R. Kuppan,
W/o.Late Shri Ramalingam Kuppan,
Aged 58 years,
R/O:Sona Talavdi, Nr.Gujarat Gas Co.,
Bharuch - 392 002.

Applicant

By Advocate Ms.S.S.Chaturvedi

Vs.

- i) Union of India,
Notice to be served through,
The General Manager,
Western Railway,
Churchgate, Mumbai – 400 020.

- ii) Divisional Railway Manager (E),
Western Railway,
Pratapnagar, Baroda – 390 004.Respondents

By Advocate Shri M.J.Patel .

O R D E R (Oral)

Per: M.C.Verma, Member (Judicial)

1. Being aggrieved by non payment of ex gratia payment for accidental death of her husband while on duty and for non taking

of decision on her representation for ex gratia payment applicant has preferred instant OA and the OA is at the stage of final hearing.

2. Briefly applicant's case, as has been set out in her OA is that her husband was in service of the respondent, as Khalasi, that her husband in periodical check up by Railway administration was found having no symptom of decease but on 29.10.2008 while he was on duty died an accidental death. That post-mortem report reveals that he sustained heart attack. She pleaded that due to workload and because of excess work taken by the respondent she lost her husband and her husband died an accidental death. That no ex gratia payment was paid to the applicant, that she also made representation on 22/12/10 and when no response received gave another representation (Annexure A/6) but of no avail and again on decision and hence is the OA, with application for condonation of delay.
3. The case of the respondent is that applicant's husband was Khalasi and was allotted duty of Valve man, that at the time of death deceased employee was on duty and was found in unconscious condition in toilet of IOW while was working as Valve operator sustained cardiac arrest and died. It has been admitted that he died while was on duty but the death was in natural course

and cannot be said to be an accidental death and hence no ex gratia payment was given. That post mortem report shows that he died due to cardiac failure as per gross pathology found in heart and liver.

4. After admission matter was heard for final disposal. Learned counsel Ms.S.S.Chaturvedi Advocate appearing for applicant & placing reliance upon decision of **Karnataka High Court** in case ***The Divisional Controller Vs Sangamma And Ors. [ILR 2005 KAR 20]***, decision dated 27/5/15 of **Delhi High Court** delivered in W.P (C) 3527/2013 having title **Ram Devi vs Director General, Bsf & Ors**, decision of **Kerla High Court** in case titled ***Devshi Bhanji Khona vs Mary Burno And Anr.* [(1985) IILLJ 70 Ker]** as well decision of Hon'ble Supreme Court in case titled ***Santoshi Devi Vs UOI & Others (2016) 3 SCC 92*** urged that the death of husband of applicant was an accidental death and cannot be said to be a natural death but at this stage she only wants that respondent may be directed to consider the case of the applicant for ex gratia payment and to pass a speaking order thereon. She explained that applicant has given her representation dated 07.05.2017 (Annexure A/6) to the respondents but respondents failed to consider the same so it would be appropriate to direct the respondents to consider her representation for ex gratia payment

in the light of above said judgments and to take a rational decision and to pass a speaking order within time frame fixed by this tribunal.

5. Learned counsel Shri M.J.Patel Advocate appearing for respondents urged that the death appears not to be an accidental death but it is true that no final decision on representation of the applicant was taken by the respondents. He also urged that it is the respondent No.2 who is the competent authority to take decision on the representation, so if the direction to decide representation is given, it should be given to respondent No.2.
6. Considered the submission. Respondent No.2 is directed to consider representation dated 07.05.2017 (Annexure A/6) of the applicant for ex gratia payment and to pass a speaking order within two months from the date of receipt of a copy of this order.
7. OA is disposed of with above directions. Pending MA also stands disposed of accordingly.

(M.C. VERMA)
MEMBER (J)