
(2018) 04 CAT CK 0004

In the Central Administrative Tribunal

Case No : Original Application No. 1103 Of 2016

Bimla Devi

APPELLANT

Vs

Union Of India And Ors

RESPONDENT

Date of Decision : 17-04-2018

Acts Referred:

Administrative Tribunals Act, 1985 — Section 19

Citation : (2018) 04 CAT CK 0004

Hon'ble Judges : K.N. Shrivastava, Member (A)

Bench : Single Bench

Advocate : Yogesh Sharma, Kirpa Shankar Prasad

Final Decision : Allowed

Judgement

1. The applicant has filed the present OA under Section 19 of the Administrative Tribunals Act, 1985 praying for the following relief:-

"(i) That the Hon'ble Tribunal may graciously be pleased to pass an order of quashing the impugned order dated 12.01.2016 (Annex.A/1) only to the extent of not granting the interest on the delayed payment of ex-gratia compensation, declaring to the effect that the whole action of the respondents not granting the interest on the delayed payment of Lump-sum-Ex-gratia compensation of Rs. 5 Lakhs to the applicant, is illegal, arbitrary, against the law of the land and consequently to pass an order directing the respondents to grant the interest on the delayed payment of Lump-sum-Ex-gratia compensation of Rs. 5 Lakhs to the applicant from due date till the date of payment of compensation with 18% interest".

2. The factual matrix of the case as noticed from the records is as under:

2.1 The applicant is widow of late Shri Braham Lal, who was working as Gangman under SSE (P.Way) Gurgaon under ADEN, Delhi Jn. in Bikaner Division. He died in harness on 20.04.1998. After the re-organization of the Railway Divisions, Gurgaon Railway-establishment has been brought under the

administrative control of Delhi Division of Northern Railway.

2.2 The applicant has received compensation under the Workmen Compensation Act. It is stated that in terms of the Ministry of Personnel, Public Grievances and Pensions OM No. 45/55/97-P&W (C) dated 11.09.1998, a lump-sum compensation of Rs.5 lakhs is payable to the kith and kin of a Government servant dying in performance of his duties and that the said ex-gratia amount has been enhanced to Rs.10 lakhs w.e.f. 01.01.2006 after the implementation of the VI CPC recommendations. The applicant claims that she was entitled for the grant of Rs.5 lakhs ex-gratia compensation in terms of the ibid OM of Department of Pension & Pensioners Welfare (DP&PW).

2.3 Since the ex-gratia compensation amount in terms of the aforementioned OM dated 11.09.1998 of DP&PW was not paid to her, the applicant approached the Tribunal in OA No.3707/2015, which was disposed of vide order dated 08.10.2015 with the following directions:-

".....the OA is disposed of at the admission stage, without going into the merits of the case, by directing the respondents to consider the claim of the applicant and pass appropriate reasoned and speaking order within 90 days from the date of receipt of this order in accordance with law".

2.4 In compliance with the aforesaid directions of the Tribunal, the respondents, vide Annexure A-1 letter dated 12.01.2016 sanctioned and released ex-gratia amount of Rs. 5 lakhs to the applicant. She claims that this amount has been released to her after almost 18 years and hence she is entitled for payment of interest on this amount for the period of delay. Accordingly, she has filed the instant OA praying for the relief as indicated in Para-1 (supra).

3. Pursuant to the notice issued, the respondents entered appearance and filed their reply in which they have stated that the lump-sum ex-gratia amount of Rs. 5 lakhs has already been paid to the applicant and that there is no rule to pay interest on the ex-gratia amount.

3.1 It is further stated that no sooner representation/legal notice of the applicant dated 01.06.2015 (Annexure A-3) was received by the respondents, the DRM, Bikaner Division vide Annexure R-1 letter dated 26.04.2015 wrote to DRM, Delhi to verify as to whether the ex-gratia amount has already been paid to the applicant or not and if not paid, then necessary documents should be made available to Bikaner Division for necessary action.

4. The applicant has filed a rejoinder to the reply filed on behalf of the respondents.

5. On completion of the pleadings, the case was taken up for hearing the arguments of the learned counsel for the parties on 13.02.2018. Arguments of Shri Yogesh Sharma, learned counsel for the applicant and that of Shri Kirpa Shankar Prasad, learned counsel for the respondents were heard.

6. I have considered the arguments of the learned counsel for the parties and also perused the pleadings and the documents annexed thereto. It is not in dispute that in terms of the OM dated 11.09.1998 of DP&PW, which the Railways have also adopted, the applicant was eligible for receiving the ex-gratia amount of Rs. 5 lakhs. Apparently, due to the transfer of Gurgaon Railway Establishment from the administrative control of Bikaner Division of North-Western Railway to Delhi Division of Northern Railway, some confusion arose in regard to the processing of the claim and consequently in the release of the ex-gratia amount to the applicant. Further, it is to be noted that the respondents swung into action only after the receipt of the legal notice dated 01.06.2015 from the applicant and after the Tribunal's order dated 08.10.2015 in OA No.3707/2015 filed by the applicant. Finally, the ex-gratia amount was released vide Annexure A-1 letter dated 12.01.2016. Hence, it cannot be denied that there has been inordinate delay in release of the ex-gratia amount to the applicant. Needless to say that it was obligatory on the part of the employer-department to release the ex-gratia amount to the kith and kin of the Railway employee, who dies in harness in performance of his duties.

7. It is an admitted fact that applicant's husband had died in performance of his duties on 20.04.1998. Even if it is assumed that some reasonable amount of time was required at the end of the respondents to process the claim of the applicant for release of the ex-gratia amount, such reasonable period could be at the most, six months.

8. As noticed hereinabove, the applicant's husband died on 20.08.1998 whereas ex-gratia amount has finally been released on 12.01.2016. Under the circumstances, I am of the view that the applicant is entitled for receiving interest from the year 1999 to 2015, i.e., for 16 years. I further feel that ends of justice would meet by ordering payment of simple interest @ 8% per annum for this period.

9. In the conspectus of the discussions in the foregoing paras, this OA is allowed of with a direction to the Respondent No.2 to pay simple interest @ 8 % for 16 years (from the year 1999 to 2015) to the applicant on the ex-gratia amount of Rs. 5 lakhs. This shall be done within a period of three months from the date of receipt of a certified copy of this order. No costs.