(2019) 10 CAT CK 0004

In the Central Administrative Tribunal

Case No : Original Application No. 33 Of 2018

Ramesh APPELLANT

Vs

Union Of India And Ors RESPONDENT

Date of Decision : 01-10-2019

Acts Referred:

Citation : (2019) 10 CAT CK 0004

Hon'ble Judges : Nita Chowdhury, Member (A)

Bench : Single Bench

Advocate : Yogesh Sharma, Shailendra Tiwari

Final Decision : Dismissed

Judgement

1. By filing this OA, the applicant, who was legal heir of late Shri Satbir Singh who was working as Khallasi in S&T Department, Patodi Road, Railway Station in Bikaner Division and died while performing his duty on 3.2.1999, is seeking the following reliefs:-

"(i) That the Hon'ble Tribunal may graciously be pleased to pass an order of quashing the impugned order dated 22.11.2017 (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 Lakh to the applicant from due date till the payment of compensation with 18% interest.

(ii) That the Hon'ble Tribunal may graciously be pleased to pass an order of awarding heavy cost on the respondents and in favour of applicant, for not granting the interest on delayed payment of ex-gratia compensation amount to the applicant and compelled the applicant to approach the Hon'ble Tribunal.

(iii) Any other relief the Hon'ble Tribunal deem fit and proper may also be granted to the applicant along with the costs of litigation."

2. In the instant case, the grievance of the applicant is against the order dated 22.11.2017 (Annex.A/1) only to the extent of not granting the interest on the delayed payment of ex-gratia compensation.

3. The applicant of the instant OA has earlier filed OA 2715 of 2017 raising the grouse of non-payment of ex-gratia and interest on the delay in making the payment of admissible amount of ex-gratia. However, the said OA was disposed of by this Tribunal vide Order dated 11.8.2017 with the following directions:-

"2. Learned counsel for the applicant states that the applicant would be happy and satisfied if a direction is given by this Tribunal to decide the legal notice dated 12.06.2017 of the applicant by passing a detailed and reasoned order within a limited period of time.

3. In view of limited prayer of the applicant I do not find it fit to keep OA pending unnecessarily. Accordingly, the respondents are directed to decide applicant's legal notice dated 12.06.2017 within a period of three months from the date of receipt of a copy of this order. It is made clear that I have not gone into the merits of this OA."

In compliance of the aforesaid directions of this Tribunal, the respondents have passed the order dated 22.11.2017 whereby they have made the payment of Rs.5,00,000/- towards ex- gratia to the applicant.

4. The only issue agitated in this OA is with regard to non-grant of interest on the delayed payment of ex-gratia amount by the respondents to him.

5. During the course of hearing, counsel for the applicant placed reliance on the decision of this Tribunal in OA 3785/2017 (Smt. Premwati vs. UOI and others) decided on 29. 11.2018 as in that case the respondents have granted ex-gratia payment of Rs.5,00,000/- only after the decision of this Tribunal in OA 4316/2016 wherein this Tribunal directed the respondents to decide his legal notice but no interest was granted and thereafter the applicant in that OA preferred another OA 3785/2017 in which she placed reliance on the earlier decisions of this Tribunal in OA 1103/2016 (Bimla Devi vs. Union of India and another) and OA No.906/2012 (Sarita Devi vs. UOI and others) decided on 10.10.2012 and this Tribunal vide Order dated 29.11.2018 allowed the said OA with a direction to the respondents to pay interest on the ex-gratia compensation amount from the time when the said provision of payment of ex-gratia compensation vide order dated 11.09.1998 came into force till the ex-gratia amount was actually paid, at the applicable rate of interest of GPF within three months from the date of receipt of copy of said Order.

6. On the other hand, learned counsel for the respondents by referring to their counter affidavit submitted that husband of the applicant expired while performing his duty on 3. 2.1999. However, at that time, the area of Patodi Road

Station and SSE/Sig/N.Rly., RE was in the administrative control of Divisional Railway Manager, Northern Railway Bikaner. The administrative control of the area was transferred to Divisional Railway Manager, Northern Railway, New Delhi as is where is basis in the year 2003 due to creation of new Zones and redistribution of Control of area.

6.1 Counsel further submitted that ex-gratia scheme was introduced in Railway on 5.11.1999 and it was further clarified on 9.2.2000 that compensation under WCA is to be deducted from ex-gratia lump-sum compensation. There was no time schedule mentioned in the year 1999 when the instructions of Railway Board were issued for payment of ex-gratia compensation.

6.2 Counsel further submitted that after creation of New Zones and redistribution of control of areas some records were misplaced/unconnected during handing and taking over office record. In this connection the old records were searched out after making so many efforts. As per available record, a pay order No.189031 dated 15.4.2002 amounting to Rs.2,09,920/- was sent to Divil. Accounts Officer, Bikaner for onwards arranging of payment through workman compensation commissioner to the applicant.

6.3 Counsel also submitted that as per direction/order dated 11.8.2017 passed by this Tribunal, the competent authority has decided to pay Rs.5,00,000/- as ex-gratia compensation to the applicant and the same was paid to the applicant vide order dated 22.11.2017. Counsel further submitted that there is no rule to pay the interest on ex-gratia compensation amount. Therefore, the competent authority has decided to pay amount of ex-gratia only. Counsel also pointed out that applicant has represented only on 12.6.2017 after lapse of more than fifteen years through legal notice. It is quite clear that department has not a malafide intention about in the matter. Counsel further submitted that ex-gratia compensation is arranged after following a due process and keeping in view of policy guidelines. The ex-gratia compensation was sanctioned to the applicant keeping in view of financial status and other circumstances of this case. There was no willful delay in arranging the payment as this case was examined at various levels as power to sanction ex-gratia compensation vested with Headquarters office, i.e., General Manager/Northern Railway. He further reiterated that there is no instruction in policy guidelines for payment of interest on delayed payment of ex-gratia compensation.

7. Counsel for the applicant in rebuttal of the contentions of the respondents submitted that husband of the applicant was died on 3.9.1999 but the applicant was not granted the payment of ex-gratia compensation of Rs.5,00,000/-, without any reason and justification, for which the applicant has to approached many times in the office of the respondents and lastly also sent a legal notice of 15 days for payment of ex-gratia amount to the applicant through her counsel but when no reply was received, applicant filed OA 2715/2017 before this Tribunal and this Tribunal decided the said OA with a direction to decide her representation within three months and in compliance of the said Order, the

respondents considered the claim of the applicant and granted ex-gratia lump-sum-compensation of Rs.5,00,000/- to the applicant vide order dated 22.11.2017 but neither the request for granting interest was considered nor has the same been granted to the applicant in spite of fact that there is an inordinate delay of more than 18 years in granting the payment of ex-gratia compensation to the applicant. Counsel reiterated that in similar circumstances in the case of Smt. Premwatii (supra), this Tribunal directed the respondents therein to pay interest on the ex-gratia compensation amount from the time when the said provision of payment of ex-gratia compensation vide order dated 11.09.1998 came into force till the ex-gratia amount was actually paid, at the applicable rate of interest of GPF within three months from the date of receipt of copy of said Order.

8. After hearing the learned counsel for the parties and perusing the pleadings available on record, it is observed that admitted the applicant's husband died on 3.9.1999 and OM of Ministry of Personnel, Public Grievances & Pensions, Department of Pension & Pensioner's welfare on the issue of grant of ex-gratia lumpsum compensation to the families of Central Govt. employees in cases of death and disability in service as per the recommendation of the 5th CPC was issued on 11.9.1999 and the Ministry of Railways decided that the above orders of the Govt. shall be applicable to the Railway servants mutatis mutandis vide R.B.E. No.285/1999 dated 5.11.1999. However, it is clearly mentioned in the said OM dated 11.9.1999 that the said OM shall apply to all cases of death in harness occurring on or after August 1, 1997. The respondents have also themselves stated that certain payments were made by the respondents to the applicant in the year 2002 but the case for grant of ex-gratia compensation was not considered or agitated by the applicant at that point of time or thereafter but sent a legal notice in the year 2017 only and in the said legal notice there is not even a whisper about that the applicant had ever requested or agitated this issue. Counsel also drew out attention that in the year 2008, the Railway Board agreed to the DOP&T's proposal regarding payment of the compensation under Workman's Compensation Act being paid in addition to the amount admissible as Ex-gratia compensation. As such when the husband of the applicant's died, the said OM 11.9.1998 was applicable to the families of Central Government Civilian employees who did in harness in the performance of their bonafide official duties under various circumstances for grant of payment of ex-gratia lumpsum compensation, which was later on made applicable to the Ministry of Railways vide their RBE No.285/1999 dated 5.11.1999, i.e., after the death of husband of the applicant. Counsel for the respondents has also pointed out that when the applicant's husband expired on 3.2.1999, at that time the area of Patodi Road Station was in the administrative control of Divisional Railway Manager, Northern Railway, Bikaner which was transferred to Divisional Railway Manager, Northern Railway, New Delhi on as is where is basis in the year 2003 due to creation of new Zones and redistribution of control of areas. Counsel for respondents further pointed out that after creation of New Zones and redistribution of control of areas

some records were misplaced/unconnected during handing and taking over office record. Counsel further pointed out that the applicant has herself annexed the Railway Board U.N. No.E(W)2007/CP-1/37, dated 18.6.2008 wherein the Railway Board agreed to the DOP&T's proposal regarding payment of the compensation under Workmen's Compensation Act being paid in addition to the amount admissible as Ex gratia compensation.

9. There is no document or evidence on record that the applicant had ever raised this grievance before the respondents till 12.6.2017 and there is also no whisper in the said legal notice that the applicant had ever agitated or requested for grant of ex-gratia compensation.

10. So far as reliance placed by the learned counsel for the applicant on the decision of the coordinate Bench in the case of Smt. Premwatii (supra) is concerned, the same is not applicable to the fact of this case as in this case, the respondents have specifically alleged that at that time the area of Patodi Road Station was in the administrative control of Divisional Railway Manager, Northern Railway, Bikaner which was transferred to Divisional Railway Manager, Northern Railway, New Delhi on as is where is basis in the year 2003 due to creation of new Zones and redistribution of control of areas.

11. We find that in the CA, the respondents have informed the fact in para 7 of the CA that the applicant was given by pay order No.189031 dated 15.4.2002 amounting to Rs.2,09,920/-. However, in the meantime, the rules with regard to payment of compensation as ex-gratia were revised and thereafter the applicant represented only on 12.6.2017 for payment of ex-gratia compensation of Rs.5,00,000/- also. Quite clearly the applicant filed his earlier OA in 2017, i.e. after considerable delay of about 18 years for ex-gratia and the same was even paid by the respondents vide order dated 22. 11.2017. Now the applicant seeks grant of interest on the payment of ex-gratia amount. The payment of ex-gratia vide Order of this Tribunal in OA 2715/2017 was permitted on 11. 8.2017 and the respondents have paid the same vide order dated 22.11.2017, i.e., within a period of three months of the Order of this Tribunal. It is also noted that the legal notice for disposal of his request for ex-gratia was only made on 12. 6.2017 and hence, the short period taken by the respondents for making the payment of ex-gratia cannot be deemed to be a long delay, as it routinely takes about three months' period for processing the formalities for the said payment. Hence, we do not find any merit for granting any interest on this short period of three months taken to pay the ex-gratia amount to the applicant.

12. In the result and for the foregoing reasons, the present OA being devoid of merit is dismissed. There shall be no order as to costs.

