

RESERVED ON 22.04.2024

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH ALLAHABAD

Dated: This the 25th of APRIL 2024

PRESENT:

Hon'ble Mr. Justice Om Prakash VII, Member (J)

Original Application No. 330/00766/2021

1. Shakuntala Devi a/a 62 years, W/o Late Jeet Bahadur Yadav, R/o

2. Divya Bhushan S/o Late Jeet Bahadur Yadav,

. . . Applicants

By Adv: Shri Deepak Maurya/Shri Udai Chandani

V E R S U S

1. Union of India through Secretary, Ministry of Communication (Telecom) Department of Tele Communication, Sanchar Bhawan, 20, Ashoka Road, New Delhi.

2. Chairman and Managing Director, BSNL Corporate Office, Bharat Sanchar Bhawan Harish Chand Mathura Lane, New Delhi.

3. Deleted

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5. Deleted

6. Assistant General Manager (Establishment)-1, Corporate Office, Pension Section 5th Floor Bharat Sanchar Bhawan, Mathur Lane, New Delhi.

7. Deleted

8. Divisional Engineer (Admin) (ADP), office of TDM, BSNL, Telephone Exchange, Jaunpur.

9. Deputy, CAA (Pension) office of Department of Telecommunication, Sub office of the Controller of Communications Accounts UP €, Circle CTO Building Cantt., Varanasi.

. . .Respondents

By Adv: Shri D.S. Shukla

ORDER

The present Original Application has been filed by the applicants under section 19 of Administrative Tribunals Act, 1985 seeking following reliefs:-

- “(i) To quash the impugned orders dated 05.04.2021 and 30.07.2021 passed by respondent No. 8 as well as the order dated 25.02.2021 passed by respondent NO. 9 by means of which the claim of the applicants relating to payment of interest of ex-gratia amount as well as the interest on pension/family pension has been rejected in an arbitrary and illegal manner against the provisions contained under the Central Government Pension Rules.*
- (ii) To direct the respondents authorities to sanction the payment of penal interest @ 18% per annum on delayed payment of ex-gratia lump sum compensation and difference of amount in ordinary family pension, extra ordinary family pension to the applicants which were paid in the year 2017 instead of in the year 2009 by the respondent authorities.*
- (iii) to issue an order or direction may deem fit and proper in the facts and circumstances of the case.*
- (iv) To award the costs to the applicants”.*

2. The brief facts of the case are that the husband of the applicant No. 1 Late Shri Jeet Bahadur Yadav, who was posted as SDE (MS), in the office of TDM, Jaunpur, died during service on 03.03.2011 while going to the office through the departmental vehicle in a serious accident at Seehipur Railway crossing Jaunpur. The family pension case of the applicants was settled in the year 2011. After the death of her husband, the applicant NO. 1 moved an application dated 02.08.2016 for payment of ex-gratia payment. The said application was forwarded to the concerned authority for necessary action. After a period of more than 09 years, the payment order was made on 23.01.2018 in favour of the applicants and the same was finally released on 24.11.2020. Applicants preferred several representations for the claim regarding payment of interest for the period from 2009 to 2020. Thereafter respondents have rejected the claim of the applicants by the impugned order

dated 31.07.2021, then, the applicant preferred the present Original Application.

3. I have heard Shri Deepak Maurya, learned counsel for the applicants and Shri D.S. Shukla, learned counsel for the respondents and perused the records.

4. Learned counsel appearing for the applicants submits that the husband of applicant No.1 was posted as SDE (MS), in the office of TDM, Jaunpur and he met with an accident while going to the office in the official vehicle and thereafter he died. The applicants applied for its ex-gratia payment but the same was released on 24.11.2020 but interest on delayed payment of ex-gratia and family pension has not been made. It is also argued that the applicants' case is also covered with judgments passed by Hon'ble Delhi High Court as well as Hon'ble Punjab and Haryana High Court as well as several Benches of Central Administrative Tribunal. Applicants have relied upon the following decisions:-

“(i) Union of India Vs. Premwati decided in WP © 10087/2019 and CM Appl. 41716/2019 passed on 31.10.2022 by Hon'ble Delhi High Court.

(ii) Poonam Vs. Union of India and others decided in CWP 9022-2017 delivered on 24.04.2023 by Hon'ble Punjab and Haryana High Court.

(iii) Smt.Shakuntla Vs. Union of India decided in OA No. 3384 of 2017 delivered on 10.11.2022 by CAT, Principal Bench, New Delhi.

(iv) Smt. Premwati Vs. Union of India and others decided in OA No. 3785 of 2017 delivered on 29.11.2018 by CAT, Principal Bench, New Delhi.

(v) Smt. Thimmakka Vs. Union of India and others decided in OA No. 310/00165/2019 delivered on 17.10.2019 by CAT, Chennai Bench.

(vi) Smt. Krishna Devi Vs. Union of India and others decided in OA No. 523 of 2018 delivered on 05.10.2023 by CAT, Allahabad Bench.

(vii) Sangeeta Devi Vs. Union of India and others decided in OA No. 330/00232 of 2021 delivered on 08.11.2023 by CAT, Allahabad Bench”.

Further, learned counsel for the applicants argued that OA be allowed and respondents be directed to pay interest as claimed in the OA from the date when ex-gratia amount become due till its actual payment.

5. Learned counsel for the respondents vehemently argued that there is no provision for payment of interest on ex-gratia amount, as and when applicants

applied for ex-gratia payment, respondents after scrutinizing the matter and getting approval immediately paid the ex-gratia amount. No delay is occurred on part of the respondents. It is specifically argued that applicants had applied for ex-gratia amount in the year 2016, therefore, respondents cannot be fastened any responsibility for payment of interest on ex-gratia amount, thus prayer was made to dismiss the OA.

6. I have carefully gone through the arguments advanced by the learned counsel for the parties.

7. Interest on the delayed payment of ex-gratia compensation and pension/family pension is the primary concern in the present OA. The applicants are entitled for interest on the delayed payment, as requested in the OA, since she has acknowledged that the ex-gratia amount was credited to her bank account on 24.11.2020.

8. In the case laws relied upon by the applicants, Hon'ble High Court as well as Tribunal have observed that dependent of deceased employee is entitled for interest on delayed payment of ex-gratia pension and pension/family pension. It is also observed by the Tribunal in the case of OA No. 232 of 2021 that the respondents cannot deny the interest on delayed payment of ex-gratia amount to the applicant for a mistake or delay committed by official. This being so, there is no reason that the applicant should be put into financial disadvantage if delay in actual payments is caused by a course of events which were not caused by her but were attributable to the respondents. In the instant case, the respondents are duty bound to give interest on ex-gratia compensation in accordance with their own policies. Therefore, the family of the deceased employee is not required to produce evidence or assert a claim. Regarding the respondent's argument that there is no rule governing the payment of interest on the ex gratia compensation amount, it is relevant to mention here that interest must be paid when the respondents failed to fulfill their obligations in accordance with their own rules.

9. In view of the aforesaid facts and circumstances and also settled position of law as discussed above, the OA is allowed and the impugned orders dated 05.04.2021 and 30.07.2021 passed by respondent No. 8 as well as the order dated 25.02.2021 passed by respondent NO. 9 are hereby quashed. Respondents are hereby directed to pay the simple interest @ 6% per annum on ex-gratia compensation as well as difference of provisional family pension from 04.06.2011 till the date of actual disbursement i.e. 24.11.2020. This exercise shall be completed within a period of three months from the date of receipt of a certified copy of this order. No order as to costs. All associated MAs stand disposed of.

(Justice Om Prakash –VII)

Member (J)

Manish/-