

Court No. - 39

Case :- WRIT - A No. - 18792 of 2023

Petitioner :- Union Of India And 2 Others

Respondent :- Smt.Savitri Devi And Another

Counsel for Petitioner :- Ashish Kumar

Hon'ble Saumitra Dayal Singh,J.

Hon'ble Shiv Shanker Prasad,J.

1. Heard Shri Ashish Kumar, learned counsel for the petitioners and perused the record.

2. Present writ petition has been filed against the order dated 17.08.2023 passed by Central Administrative Tribunal, Allahabad Bench, Allahabad in Original Application No. 850 of 2016 (Smt. Savitri Devi Vs. Union of India and others). By that order, the learned Tribunal has provided for payment of Ex-gratia compensation to the private-respondent-Smt. Savitri Devi arising from the death of an employee of the petitioners namely Dharmendra Singh.

3. As to the occurrence, there is no dispute. It thus stands established that Dharmendra Singh was on railway duty on 6.6.2005. He was found lying in an injured state on the railway track near Gate No. 347C, Shiv Nagar Railway Gate, near Tisua Railway Station. It is also not in dispute that at that time the deceased was on duty at the said railway gate. During the course of the treatment, he died on 7.6.2005 at Railway Hospital Izzatnagar, Bareilly.

4. In view of the above facts, it is seen that for the purpose of grant of Ex-gratia compensation, the petitioner-railway authorities have

framed policy guidelines dated 11.09.1998. One exigency when Ex-gratia payment may be granted is specified in the policy document dated 11.09.1998. Clause-5 (b) of the said document reads as below :

"(b) Death occurring in the course of performance of duties attributable to acts of violence by terrorists, anti-social elements, etc."

5. As to the condition for grant of Ex-gratia payment, learned counsel for the petitioners has relied on condition no. 7 of the policy document dated 11.09.1998. It reads as below :

"7. Cases of death resulting from acts of violence or assault by terrorists, anti-social elements, etc. against a Government servant with the intention of deterring or preventing him from performing his duties; or because of any act done or attempted to be done by such Government servant in the lawful discharge of his duties; or because of his official position will also be covered under clause (b)".

6. Having heard learned counsel for the petitioners and having perused the record, we are not impressed with the submission being advanced that for Ex-gratia payment, the death must have been caused to the railway employee with intent to disrupt the work of the railways. According to learned counsel for the petitioners, in the present facts, since the death may have been caused by some miscreants who may have had some personal issues with the deceased and since the deceased was not assaulted with intent to disrupt the work of the railways the respondent would remain not entitled to Ex-gratia payment. That liability may arise only in cases where the object of assault may be with intent to disrupt the railway work.

7. In the first place, grant of Ex-gratia compensation is a policy

decision. It has been provided in terms of the recommendation of the 5th Central Pay Commission. Perusal of the Clause-5(b) of the policy document dated 11.09.1998 does not indicate that the same may remain confined to act committed with intent to disrupt the work of the railways. Plain reading of the said clause (quoted above) clearly indicates that Ex-gratia payment would become payable in all events of death caused in the course of performance of duties where such death may be attributable to act of violence committed either by terrorists or anti-social elements. It is to give effect to that policy objective and conditions have been stipulated in the policy document dated 11.09.1998. The words "will also be covered under Clause (b)" appearing at the end of the said clause do indicate that the payment of Ex-gratia compensation is not confined to eventualities specified in the main Clause-7 but that such eventualities would also be covered for the purpose of grant of Ex-gratia payment where death may have been caused by anti-social elements.

8. Thus, in the first place, Ex-gratia compensation would become payable to cases where death may have been caused of a railway servant while on duty. That liability would arise in Clause-5(b) of the policy statement dated 11.09.1998 and such liability would also exist where death may have been caused of a railway servant whether on duty or not on duty, if such act was committed with intent to obstruct or for reason of performance of railway duty. That is the only object sought to be served by Clause-7 of the policy statement dated 11.09.1998.

9. Seen in that light, we find no error in the approach of the Tribunal in allowing the Original Application. The Tribunal has also rightly considered the issue of acquittal that may have arisen

in the criminal cases. Insofar as occurrence of assault and result of death of Dharmendra Singh while he was on railway duty, is not disputed, conviction in the criminal case may never become a condition to be fulfilled for payment of Ex-gratia compensation.

10. Let Ex-gratia compensation be paid out to the private-respondent-Smt. Savitri Devi as per the current/last policy for payment of such compensation. The objection being raised that the private-respondent-Smt. Savitri Devi may remain entitled to Ex-gratia payment as per the then existing policy, is rejected for reason of delay of 18 years caused in payment of that compensation. Therefore, we are not providing for interest on the said payment subject to such higher payment being made within a period of three months from today, failing that the same shall attract interest @ 8% from the date of occurrence till the date of actual payment.

11. Accordingly, the writ petition is **dismissed**. In view of higher amount of compensation awarded, no order as to costs.

Order Date :- 8.11.2023
SA

(Shiv Shanker Prasad, J.) (S.D. Singh, J.)