

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

LPA no.1525 of 2017 (O&M)  
Date of Decision :21.8.2017

Union of India and others

....Appellant(s)

Versus

Pushpa Devi

...Respondent(s)

CORAM : HON'BLE MR.JUSTICE MAHESH GROVER  
HON'BLE MR JUSTICE RAJ SHEKHAR ATTRI

Present : Mr. Rajvir Singh Sihag, Advocate for the appellant(s)

**MAHESH GROVER, J.(ORAL)**

The Union of India is in appeal against the judgment of the learned Single Judge dated 18.4.2017 where as a writ petitioner the respondent made the following prayers:-

- “(a) To grant special extra ordinary pension;
- (b) To grant ex-gratia lump-sum compensation; &
- (c ) Employment to the petitioner being dependent of  
Government servant.”

The prayers at sr. no. (a) and (b) were granted whereas prayer at sr. no. (c ) was not considered necessary to comment upon in view of the stand of the appellants who are contemplating employment on compassionate basis to the ward of the respondent.

The deceased was working as driver with the Border Roads Organization and died while on duty on account of heart attack. The claim

for extra ordinary family pension and ex gratia lump sum compensation was denied as the stand of the appellants was that he died on account of a heart failure and not on account of service.

Learned Single Judge while placing reliance on several precedents of this Court concluded that such a stand was unreasonable as the deceased died in harness in difficult terrain on account of heart attack which would come within the ambit of the word 'accident' as defined under Section 3 of the Workman's Compensation Act and the exception as extracted herebelow pleaded by the appellants would not be attracted:-

“That it is further submitted that as per condition and guideline laid down in Deptt. of pension & pensioner welfare OM no. 45/ 55/94-P&PW (C ) dated 11 Sep 1998, as amended vide OM no. 38/37/0-P&PW(A) dated 02 Sep 2008, ex-gratia lump sum compensation payment also covers the cases where death occurs in the specified circumstances such as death attributable to accident while on duty, act of violence, anti social elements, war or border skirmished, militant attack, terrorist and extremist attack and also where death occurs while on duty in the specified high altitude, inaccessible border posts, etc on account of natural disasters and extreme weather conditions. In the instant case, EXGS-179413X DVRMT late Vijender Singh died due to Cardio Respiratory Failure which is not covered the condition to pay ex-gratia lump sum compensation.”

Clearly the deceased was working on a high altitude. Even his

employment with the Border Road Organizations itself is suggestive of the hazardous duty on high altitudes which took its toll. It is difficult to find any fault with the reasoning of the learned Single Judge who has held the respondents entitled to family pension as also the ex gratia in accordance with the principles of law.

That apart the appeal is also barred by delay of 67 days which is not adequately explained . Hence, instant appeal is hereby dismissed.

(Mahesh Grover)  
Judge

(Raj Shekhar Attri)  
Judge

21.8.2017  
rekha

|                           |        |
|---------------------------|--------|
| Whether speaking/reasoned | Yes/No |
| Whether reportable        | Yes/No |