

IN THE HIGH COURT OF ORISSA AT CUTTACK

WP(C) No.20635 of 2017
(Through Hybrid mode)

Ritarani Nayak

....

Petitioner

Mr. P.K.Mohapatra, Advocate

-versus-

Union of India and others

....

Opposite Parties

Mr. B.S.Rayaguru, Advocate
(Central Government Counsel)

CORAM: JUSTICE ARINDAM SINHA

ORDER
08.03.2022

Order No.

06. 1. Mr. Mohapatra, learned advocate appears on behalf of petitioner and submits, his client is widow of a Sepoy, who died. He draws attention to annexure 5 in the petition, serial no.1, which provides for ex-gratia from Central Government, of Rs.10 lakhs in case of physical casualty (fatal). He submits under challenge is letter dated 13th February, 2017, whereby the compensation was denied on allegation that death caused trying to board a moving train, while proceeding on leave, is not covered under the policy.

2. Mr. Rayaguru, learned advocate, Central Government Counsel appears on behalf of opposite parties and hands up copy of circular dated 4th June, 2010, referred in impugned letter dated 13th February, 2017. He submits, the situation, in

which the deceased met with accident, is not covered under the circular. Furthermore, the decision communicated by impugned letter is of the appellate committee. Said decision is to be challenged before the Armed Forces Tribunal at Kolkata. The writ petition is not maintainable.

3. Paragraph 4 in the circular says as follows:-

“In certain cases, relief is also provided to the families of deceased Armed Forces personnel from sundry Government sources, such as the Prime Minister’s Relief Fund, Chief Minister’s Relief Fund, etc. In such cases it should be ensured that the aggregate of the relief/ex-gratia compensation paid from different sources does not exceed Rs.20 lakhs in each individual case. Para 12 of Annexure to this Ministry’s letter No.20/1/98/D (Pay/Services) dated 22nd September 1998 stands modified to that extent.

4. The writ Court has before it the next of kin of a person who wore the uniform and died on meeting with accident while proceeding on leave. Above extract from the circular, it obviously appears, was not considered in taking the decision. As such there is non-application of mind warranting interference in writ jurisdiction.

5. Union of India is directed to consider petitioner’s case in line with paragraph 4 of the circular. On behalf of the next of kin, Union of India must do what is necessary to see that a man, who was in uniform in the service of the country and died by accident while proceeding on leave, is not a case where it turns its back to the next of kin. For such instances, the circular refers to compensation from Prime Minister’s

relief fund, Chief Minister's relief fund etc. The Court expects Union of India to be proactive and not turn away petitioner.

6. With above observations, the writ petition is disposed of.

(Arindam Sinha)
Judge

RKS

