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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 9446/2023

SMT SHAKUNTLA

..... Petitioner

Through: Mr. A.K. Trivedi and Dhruv Kumari,
Advs.

versus

UNION OF INDIA AND ANR

..... Respondents

Through: Ms. Saroj Bidawat, Advocate

CORAM:

HON'BLE MS. JUSTICE REKHA PALLI

HON'BLE MR. JUSTICE SAURABH BANERJEE

ORDER

28.05.2024

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1. The present writ petition under Articles 226 & 227 of the Constitution of India seeks to assail the order dated 10.11.2022 (impugned order) passed by the learned Central Administrative Tribunal (the Tribunal) in Original Application (O.A.) No. 3384/2017 insofar as it grants interest to the petitioner only from the date of filing of the O.A., on the ex-gratia compensation amount already directed to be paid by the respondents in terms of the impugned order passed by the learned Tribunal.
2. Learned counsel for the petitioner submits that the petitioner's late husband expired while performing bona fide official duty on 03.09.1998, but despite the recommendations of the 5th Central Pay Commission, being duly adopted by the respondent no. 2 w.e.f. 05.11.1999, since the respondents did not release the ex-gratia compensation amount of Rs.5 lakhs, which was payable to the petitioner as lumpsum compensation, the petitioner was compelled to



approach the learned Tribunal in 2017. He, therefore, contends that in these circumstances when the respondents despite being aware of the petitioner's whereabouts from the service records of her late husband, failed to release the due ex-gratia compensation amount to her, it was a fit case where some interest ought to have been awarded.

3. In support of his plea, he seeks to rely on the decision of the learned Tribunal in O.A. No. 3785/2017 dated 29.11.2018 titled "***Smt. Premwati vs. Union of India & Ors.***", whereby the learned Tribunal while allowing the O.A. of the petitioner therein granted interest on ex-gratia compensation amount from the time when the said provision for payment thereof came into force till the date of actual payment thereof at the GPF rate of interest, which judgment was unsuccessfully assailed before this Court by way of W.P.(C) 10087/2019 titled "***Union of India & Ors. vs. Premwati***". Furthermore, the factual matrix of ***Smt. Premwati*** (supra) was identical to the facts of the present case. The husband of the Premwati had expired in 1997 and she had by way of O.A. 4314/2016 approached the learned Tribunal only in 2016 i.e., after a gap of 19 years and she was still awarded interest on account of the delay on the part of the respondents in releasing the ex-gratia compensation. He, therefore, prays that the writ petition be allowed and the respondents be directed to grant interest @12% per annum to the petitioner from 05.11.1999, the date when the Railway Board had adopted the Central Government's circulars for payment of ex-gratia compensation amount.
4. On the other hand, Ms. Saroj Bidawat, learned counsel for the



respondents supports the impugned order and submits that since the petitioner had approached the learned Tribunal belatedly, the learned Tribunal was justified in not awarding any interest on the delayed payment of ex-gratia compensation amount. Further, she submits that the respondents had promptly released the ex-gratia compensation amount as soon as the O.A. was filed and, therefore, the learned Tribunal was justified in awarding interest only from the date of filing of the O.A. She, therefore, prays that the writ petition be dismissed.

5. Having considered the submissions of learned counsel for the parties and perused the impugned order as also the order passed by the learned Tribunal in *Smt. Premwati* (supra) alongwith the order passed by the Court in *Smt. Premwati* (supra), we are of the view that the petitioner deserves to be granted interest on the ex-gratia compensation amount which was admittedly paid to her after more than almost 19 years from the date of her husband's death. As noted hereinabove, though the petitioner's husband expired on 03.09.1998, she has been released the ex-gratia compensation amount only on 13.04.2017 and that too after filing of the O.A. by her before the learned Tribunal.
6. It needs to be noted that the scheme for payment of ex-gratia compensation amount to family members of those employees who die while discharging bona fide official duties was introduced with the solitary purpose of ensuring that the family members are not left in the lurch on the expiry of the earning member. Under these circumstances it was incumbent upon the respondents who had all the service records of the petitioner, to release the said amount well in



time. The respondents having delayed the said payment, cannot be now permitted to urge that the petitioner had approached the Court belatedly. The respondent as a model employer cannot be permitted to take advantage of its own wrong and then urge that interest is not payable.

7. We have also considered another decision of this Court dated 03.03.2022 in W.P.(C) 12849/2019 titled “*Union of India & Anr. vs. Manorma Devi*” wherein a Co-ordinate Bench in similar circumstances, had upheld the direction of the learned Tribunal to pay interest on the ex-gratia compensation amount to the applicant therein.
8. We are, therefore, of the considered view that the learned Tribunal has erred in granting interest only from the date of filing of the O.A. and not from the due date i.e., 05.11.1999. Accordingly, we allow the writ petition by modifying the impugned order and directing the respondent to pay interest to the petitioner from 05.11.1999 i.e., the date when the Railway Board had decided to adopt the circulars issued by the Central Government providing for ex-gratia payment to the family members of those employees who die while performing bona fide official duties within a period of 12 weeks from today.
9. The writ petition stands disposed of in the aforesaid terms.

REKHA PALLI, J

SAURABH BANERJEE, J

MAY 28, 2024

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