

SEE RULE 102 (1)
ARMED FORCES TRIBUNAL, KOLKATA BENCH
OA No. 72 OF 2014
THIS DAY 22ND MARCH, 2016

CORAM

HON'BLE JUSTICE N. K. AGARWAL, MEMBER (JUDICIAL)

HON'BLE LT GEN GAUTAM MOORTHY, MEMBER (ADMINISTRATIVE)

APPLICANT(S)

Roni Devi wife of JC-559924N Late Sub
 Satendra Kumar, resident of village- Sarwan
 Bhadsara, P.O.-Gorakhari, P.S.-Bikram,
 District- Patna(Bihar) 801104

Versus

RESPONDENT(S)

1. **The Union of India through the Defence**
 Secretary, Army H.Q., Defence H.Q.
 New Delhi- 110 011.
2. **The Chief of the Army Staff, Army H.Q.,**
 Defence H.Q.,
 New Delhi- 110 011.
3. **The Senior Record Officer Bihar**
 Regimental Abhilekh Karyalaya,
 Records the Bihar Regiment 908765.
4. **The Officer-In-charge P.C.D.A.(P),**
 Allahabad (U.P.) – 211018.
5. **The Secretary, Department of Ex-servicemen**
 welfare and pension, Ministry of Defence,
 South Block, New Delhi-110011.
6. **The Sub Area Commander, Jharkhand and Bihar,**
 Sub Area Danapur Cantt, Patna (Bihar) – 801503.
7. **The Centre Commandant Bihar Regimental**
 Centre, Danapur Cantt., Patna (Bihar) 801503
8. **The Commanding Officer 10 Bihar Regiment c/o**
 56 APO.
9. **The Deputy Director, AGIPS-5 Integrated**
 H.Q. MOD (Army) Adjutant General Branch
 Addl Dte Gen Personal Service,
 New Delhi-110011.

For the applicant(s) : Mr. Fulman Singh

For the respondent(s) : Mr. Anup Kumar Biswas

ORDER**PER JUSTICE MR. N. K. AGARWAL, HON'BLE MEMBER (JUDICIAL)**

1. This is an application under section 14 of the Armed Forces Tribunal Act, 2007 for grant of ex-gratia . The facts in brief necessary for disposal of this application are as under :

2. Late Subedar Satendra Kumar, husband of the applicant was enrolled in 10 Bihar Regiment on 9.11.83 as an Infantry soldier. After completion of basic military training he was posted to various units. While serving with 10 Bihar he was deployed in Malsar post (GR 487621) Gurez Sector in OP Rakshak-II (J & K). On 9.3.2010 he complained of restlessness and collapsed and fell down unconscious. Thereafter, he was evacuated to 92 Base Hospital by air where he was declared dead. The cause of death as per opinion of Medical Officer was unknown. Thereafter, post mortem was carried out at the Kashmir Police Hospital, Srinagar and was given a provisional diagnosis of cardiac arrest. The circumstances leading to applicant's husband casualty was confirmed as Battle casualty vide IHQ of MoD (Army) (MP 5D) Signal No. 350318 dated 20 April 2010. Accordingly, the certificate was issued. Thereafter, on receipt of documents the Bihar Regiment processed the claim and sent the same to Principal Controller of Defence Account (Pension) Allahabad for grant of liberalized family pension to the applicant and ex-gratia compensation. However, PCDA(P) rejected the applicant's claim for grant of ex-gratia as according to him the applicant's husband died of a disease which is not attributable to military service.

3. According to the counsel for the applicant, the applicant is getting the special family pension and had also received all other dues except the ex-gratia amount.

4. We have heard the learned counsel for the parties and perused the records.

5. Indisputably, the applicant's husband was serving at the relevant time in a High Altitude Area. It is due to climatic conditions, stress and strain of the work he may have suffered heart attack though according to doctor's opinion the cause of death is unknown and therefore it is not correct to say that he died of a disease which is not attributable and/or aggravated to military service. The doctor as well as the respondents themselves have declared the death as the **Battle Casualty**. According to para.(d) of annexure R-22 filed by the respondents at page 64 of the affidavit-in-opposition if death occurs while on duty in the specified high altitude, inaccessible border posts, etc. on account of natural disaster, extreme weather condition, an ex-gratia compensation of Rs. 15.00 Lac is payable to the NOK of the deceased soldier. As per their own

document the applicant's husband died of an extreme weather condition and the applicant is entitled for grant of all benefits available in case of Battle Casualty including ex-gratia. Therefore, the grounds on which the PCDA(P) denied the claim of the applicant are not sustainable.

6. In view of above, in our opinion the application deserves to be and is hereby allowed without any order as to costs. The respondents are directed to pay the amount of ex-gratia compensation of Rs. 15.00 Lac to the applicant along with interest at the rate of 6% per annum from the date it was due within a period of three months from the date of receipt of a copy of this order.

7. The application is thus disposed of.

8. Let a plain copy of this order, duly countersigned by the Tribunal Officer of this Tribunal, be supplied to the parties after compliance of requisite formalities.

(LT GEN GAUTAM MOORTHY)
Member (Administrative)

(JUSTICE N. K. AGARWAL)
Member(Judicial)

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