A

RAJANNA

v.

UNION OF INDIA

APRIL 19, 1995

B

[J.S. VERMA AND SUJATA V. MANOHAR, JJ.]

Service Law : Ex-gratia payment to S.P.G. Personnel—Government Circular regarding—Permanent partial disablement while on duty—Claim-entitled to—Meaning 'actual VIP security duty'—Notional Extension of actual duty—

C *Application of Principle of Workmen's Compensation Act.—Object of the Circular—To adopt a humane approach.*

Words and Phrases : "actual VIP security duty", "in the course of employment"—Meaning of in the context of Service Law—Same meaning as under the Workmen's Compensation Act.

D

The appellant, a security assistant in the SPG attached to the PM's office, suffered injuries while on his way to duty in an official SPG vehicle. Due to the injuries, the appellant suffered permanent partial disablement and therefore was unsuitable to perform VVIP's security duty.

E **The Appellant's claim for ex-gratia payment was rejected by the Government as it was not covered by the circular. The Tribunal also rejected the appellant's claim. Hence, this appeal.**

Allowing the appeal, this Court

F **HELD : 1. The authorities concerned must adopt a human approach and construe the circular in question liberally to advance its object instead of taking a rigid and pedantic stand. Unless properly implemented the scheme in the circular would be frustrated resulting in failure to achieve the avowed purpose. [533-F]**

G **2. It is well known that the Special Protection Group in the elite security force formed initially in 1985 of specially trained personnel to provide security cover to the P.M. of India and lately the Statute under which it was constituted has been amended to extend the provision of such security cover also to the former Prime Ministers. In view of the high**

H **quality of the personnel needed to constitute the SPG, some extra benefits**

are given to them for the much greater risk they take and the greater danger to which they are exposed. This is the object of the circular in providing ex-gratia payment to the SPG personnel in the event of sustaining injuries. [528-E, F]

3. The modified circular enhances the rates and enlarges the extent of application thereon to the SPG personnel. The provision is made for payment for injuries sustained not only while performing "actual VIP Security duty" but also while performing duty "other than actual VIP security duty". This is the concept of the ex-gratia payment to SPG personnel under the CIRCULAR. SPG Trainee personnel are also covered under the circular; he would be treated to be on duty "other than actual VIP security duty", and for injuries sustained by him during the training period he would be covered and entitled to payment thereunder, though at a lesser rate. [528-G, H, 529-A, 529-C]

4. In the instant case, the appellant sustained injuries resulting in his permanent partial disablement in a motor accident when he was travelling from the staff quarters to the South Block for duty in the official SPG vehicle meant for carrying the SPG personnel on duty. The principle under the Workmen's Compensation Act for determining whether an accident arose out of and in the course of employment of the workman is equally applicable to the circular, as both have the same object. The appellant was at a place on a point or an area which came within the theory of notional extension of the official premises for performance of "actual VIP security duty". The official SPG Vehicle was a notional extension of the official premises and therefore the appellant was deemed to be on actual VIP security duty, while travelling in it from the staff quarters to the South Block. [529-E, F, G, 530-H, 531-A, B]

Saurashtra Salt Manufacturing Co. v. *Bai Valu Raja and Ors.,* AIR (1958) SC 881, applied.

5. There was a causal relationship between the accident and his employment in the SPG for actual VIP security duty and it was an incident of the employment to travel from the staff quarters to the South Block in an official vehicle. Thus, the injury by accident arose in the "course of employment". The meaning of he expression "actual VIP security duty" is in consonance with the words" in the course of employment" in the Workmen's Compensation Act and therefore the test for determining the

A **liability for payment under the circular is the same. [533-D, E]**

Maokinnon Mackenzie and Co. Pvt. Ltd. v. *Ibrahim Mohammed Issak,* **[1970] 1 SCR 869, relied on.**

Lancashire and Yorkshira Railway Co. v. *Highley,* **(1917) A.C. 352,** B **referred to.**

Halsbury's Laws of England, **Vol. 33, Fourth Ed. 490, referred to.**

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 4584 of 1995.

C

From the Judgment and Order dated 31.3.93 of the Central Administrative Tribunal, Delhi in O.A. No. 2284 of 1992.

K.A. Nagaraja, for the Appellant.

D K.T.S. Tulsi, Additional Solicitor General, A. Subba Rao and P. Parmeshwaran for the Respondent.

The Judgment of the Court was delivered by

J.S. VERMA, J. Leave granted.

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The only question for decision is : Whether the appellant is entitled to the ex-gratia payment of Rs. 50,000 in accordance with the circular dated 13.6.1986 of the Cabinet Secretariat of the Central Government providing for grant of ex-gratia payment to the Special Protection Group (SPG) Personnel? The claim is on account of the permanent partial disablement F suffered by the appellant as a result of certain injuries sustained by him in a motor accident on 20.6.1986 while travelling in a SPG vehicle. The material part of the circular providing for ex-gratia payment to be made to the SPG personnel who suffer permanent partial disablement as a result of injuries received while performing actual VIP security duty is as under:

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> "(iii) Rs. 50,000 (Rupees Fifty thousand only) to the SPG personnel who suffer permanent partial disablement as a result of injuries received while performing actual VIP security duty."

The relevant facts are admitted. The appellant was a security assis- H tant in the Special Protection Group attached to the Cabinet Secretariat

from 17.9.1985 and was amongst the security personnel attached to the Prime Minister's Office. On 20.6.1986 the appellant was required to be on such duty at the South Block, New Delhi from 9.00 am to 5.30 p.m. According to the official arrangement some members of the SPG personnel including the appellant were picked up by an official SPG vehicle from the staff quarters and the vehicle was going to the South Block when it was involved in a road accident at about 8.20 a.m. in which the appellant sustained certain injuries resulting in his permanent partial disablement on account of shortening of one leg. As a result of this disability the appellant became unsuitable for performance of the security duty of VVIPs and was shifted to a less important posting which also reduced his special allowance from 50% to 25%.

The appellant claimed the ex-gratia payment of Rs. 50,000 in accordance with the above circular dated 13.6.1986 on the ground that his permanent partial disablement was the result of injuries sustained by him while on duty. The appellant's claim was rejected by letter dated 23.7.1992 which reads as under:-

"No. 8/SPG/-PF/85(136)
Special Protection Group
(Cabinet Secretariat)

New Delhi

No.1, Safdurjung Lane,
New Delhi - 110 001.

Dated 23 July, 92.

MEMORANDUM

With reference to his representation for grant of ex-gratia payment, Shri Rajanna, SA is hereby informed that his case was considered by the Government carefully but could not be acceded to as the same was not covered for the grant of ex-gratia payment under the rules and has since been dropped.

Sd/-

Assistant Director (Admn.)

A To
Shri Rajanna, SA through AD (Tech.), SPG"

The appellant then filed O.A. No. 2284 of 1992 before the Central Administrative Tribunal, Principal Bench, New Delhi for recovery of his claim of ex-gratia payment of Rs. 50,000. The claim was contested on the B ground that the injuries resulting in the permanent partial disablement of the appeallant were not sustained by him while performing "actual VIP security duty" as required by the circular but in the motor accident which occurred before the appellant had joined actual duty at 9.00 a.m. The Tribunal has rejected the appellant's claim accepting the defence. Hence, C this appeal by special leave.

The real question for decision is the meaning of the expression "actual VIP security duty" in the above circular in the context of the provision for "grant of ex-gratia payment to SPG personnel". The reasoning of the tribunal which is supported by the learned Additional Solicitor D General on behalf of the respondent is that "actual VIP security duty" means the actual period when the person is providing security to the VIP on commencement of the duty hours and it does not include the journey to and from the duty post. Is this the correct meaning of the expression in the present context?

E It is well known that the Special Protection Group is the elite security force formed initially in 1985 of specially trained personnel to provide security cover to the Prime Minister of India; and sometime back the statute under which it was constituted has been amended to extend the provision of such security cover also to the former Prime Ministers. In view F of the high quality of personnel needed to constitute the SPG, some extra benefits are given to them for the much greater risk they take and the greater danger to which they are exposed. The above circular providing for grant of ex-gratia payment to the SPG personnel in the event of sustaining injuries has the same object.

G The circular Annex. 'N' dated 24.1.1990 modifies the earlier circular dated 13.6.1986 and enhances the rates and enlarges the extent of application thereof to the SPG personnel. It shows that provision is made for payment for injuries sustained not only while performing "actual VIP security duty" but also while performing duty "other than actual VIP H security duty". Thus ex-gratia payment, according to the scheme is made

even to those SPG personnel who sustain injuries while performing duty "other than actual VIP security duty". This is the concept of the ex-gratia payment to SPG personnel under the circular. An explanatory note in that circular is as under :-

> "For the purpose of ex-gratia payment, the duty other than actual VIP duty would include training also."

This note indicates that even when a person belonging to the SPG is on training, he would be treated to be on duty "other than actual VIP security duty", and for injuries sustained by him during that period he would be covered by the circular and entitled to payment thereunder, though at a lesser rate. If this be the concept of the ex-gratia payment under the circular, it is difficult to appreciate how a person posted for actual VIP security duty and on his way for that purpose in an official SPG vehicle along with other SPG personnel can be denied the benefit of that circular. The intrinsic evidence in the circular is that it has to be construed liberally in favour of the SPG personnel to promote the object of the scheme for grant of ex-gratia payment to SPG personnel. Acceptance of the defence taken would frustrate the very object of the scheme in the circular.

The admitted facts clearly show that the appellant sustained injuries resulting in his permanent partial disablement in a motor accident when he was travelling from the staff quarters to the South Block for duty in the official SPG vehicle provided for that purpose. This road journey was not in his private vehicle or a public transport in which any member of the public could travel but in an official SPG vehicle meant for carrying the SPG personnel on duty. On these facts, it cannot be doubted that there would be notional extension of the actual duty to include the journey of this kind in the official SPG vehicle between the staff quarters and South Block. The principle under the Workmen's Compensation Act for determining whether an accident arose out of and in the course of the employment of the workman should be equally applicable to the circular since both have the same object. It is, therefore, useful to refer to some decisions of this Court on the point under the Workmen's Compensation Act.

In *Saurashtra Salt Manufacturing Co.* v. *Bai Valu Raja and Ors.,* AIR (1958) SC 881, the general rule was indicated thus :-

> "As a rule, the employment of a workman does not commence

A until he has reached the place of employment and does not continue when he has left the place of employment, the journey to and from the place of employment being excluded. *It is now well-settled, however, that this is subject to the theory of notional extension of the employer's premises so as to include an area which* B *the workman passes and repasses in going to and in leaving the actual place of work.* There may be some reasonable extension in both time and place and a workman may be regarded as in the course of his employment even though he had not reached or had left his employer's premises. The facts and circumstances of each case will have to be examined very carefully in order to determine whether C the accident arose out of and in the course of the employment of a workman, keeping in view at all times this theory of notional extension."

(para 7)

D "..... It is well settled that when a workman is on a public road or a public place or on a public transport he is there as any other member of the public and is not there in the course of his employment *unless the very nature of his employment makes it necessary for him to be there.* A workman is not in the course of his employ- E ment from the moment he leaves his home and is on his way to his work. *He certainly is in the course of his employment if he reaches the place of work or a point or an area which comes within the theory of notional extension,* outside of which the employer is not liable to pay compensation for any accident happening to him....."

F (Para 8)

(Emphasis supplied)

In the facts of that case the employer was held not liable only because the accident occurred when the workman was travelling in a boat not provided G by the employer but a public transport in which any other member of the public could travel and it was not incumbent on the workman to adopt that mode of travel. Applying the test in the present case, it is clear that since the appellant was travelling in the official SPG vehicle in which he was required to travel from the staff quarters to the South Block, that vehicle H not being available to anyone other than the SPG personnel, the appellant

was at a place or a point or an area which came within the theory of notional extension of the official premises for performance of "actual VIP security duty". In other words, that official SPG vehicle was a notional extension of the official premises and, therefore, the appellant was deemed to be on actual VIP security duty, while travelling in it from the staff quarters to the South Block in these circumstances.

In *Maokinnon Mackenzie & Co. Pvt. Ltd.* v. *Ibrahim Mahommed Issak,* [1970] 1 SCR 869, the test for this purpose was indicated as under:-

> "To come within the Act the injury by accident must arise both out of and in the course of employment. The words "in the course of the employment" mean "in the course of the work which the workman is employed to do and which is incidental to it." The words "arising out of employment" are understood to mean that "during the course of the employment, injury has resulted from some risk incidental to the duties of the service, which unless engaged in the duty owing to the master, it is reasonable to believe the workman would not otherwise have suffered." *In other words there must be a causal relationship between the accident and the employment.* The expression "arising out of employment" is again not confined to the mere nature of the employment. The expression applies to employment as such - to its nature, its conditions, its obligations and its incidents. If by reason of any of these factors the workman is brought within the scene of special danger the injury would be one which arises out of employment". *To put it differently if the accident had occurred on account of a risk which is an incident of the employment, the claim for compensation must succeed,* unless of course the workman has exposed himself to an added peril by his own imprudent act. ....."

(Pages 872-873)

(emphasis supplied)

This indicates that there must be a causal relationship between the accident and the employment; or the accident must be related to a risk which is an incident to the employment. The House of Lords in *Lancashire and Yorkshire Railway Co.* v. *Highley,* [1917] A.C. 352, relied on in the above decision indicated the test as under:

A "There is, however, in my opinion, one test which is always at any rate applicable, because it arises upon the very words of the statute, and it is generally of some real assistance. It is this : *Was it part of the injured person's employment to hazard, to suffer, or to do that which caused his injury? If yes, the accident arose out of his employment.* ......

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(Emphasis supplied)

In Halsbury's Laws of England, Volume 33, Fourth Edition, the summary is stated thus:

C "490. *ACCIDENT TRAVELLING TO AND FROM WORK.*

The course of employment normally begins when the employee reaches his place of work. *To extend it to the journey to and from work it must be shown that, in travelling by the particular method and route and at the particular time, the employee was fulfilling an express or implied term of his contract of service.* One way of doing this is to establish that the home is the employee's base from which it is his duty to work and that he was travelling by direct route from his home to a place where he was required to work, but that is only one way of showing this; the real question at issue is whether on the particular journey he was travelling in the performance of a duty, or whether the journey was incidental to the performance of that duty and not merely preparatory to the performance of it. If the place where the accident occurs is a private road or on the employers' property, the accident is in the course of the employment because he is then at the scene of the accident by reason only of his employment and he has reached the sphere of his employment. The test is whether the employee was exposed to the particular risk by reason of his employment or whether he took the same risks as those incurred by any member of the public using the highway."

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(Pages 369-370)

"496. *ACCIDENTS TRAVELLING TO OR FROM WORK IN EMPLOYER'S TRANSPORT.*

H *An accident happening while an employed earner is, with the express*

or implied permission of his employer, travelling as a passenger to or from his place of work in any vehicle which is being operated by or on behalf of his employer, or which is provided by some other person in pursuance of arrangements made with his employer, must be deemed to arise out of and in the course of his employment, even though the employed earner is not obliged to travel by that vehicle, if it would have been deemed so to have arisen if he had been under an obligation to travel by it provided that the vehicle is not operated in the ordinary course of a public transport service."

(Page 374)

(emphasis supplied)

There can be no doubt that there was a causal relationship between the accident in which the appellant sustained the injuries and his employment in the SPG for actual VIP security duty; and it was an incident of his employment to travel from the staff quarters to the South Block in the SPG vehicle according to the official arrangement. In our opinion, the meaning of the expression "actual VIP security duty" in the above circular must be the same as that of the words "in the course of the employment" in the Workmen's Compensation Act; and, therefore, the test for determining the liability for payment under the circular should also be the same. In our view, the tribunal was in error in making an unduly strict and narrow construction of the expression used in the circular.

We are constrained to observe that the concerned authorities must adopt a humane approach and construe the circular liberally to advance its object instead of taking such a rigid and pedantic stand. Unless properly implemented, the scheme in the circular would be frustrated resulting in failure to achieve the avowed purpose.

Consequently, the appeal is allowed with Rs. 10,000 as costs.

A.N. Appeal allowed.