

No.45/55/97-P&PW(C)
Government of India
Ministry of Personnel, Public Grievances & Pensions
Department of Pension & Pensioners' Welfare

New Delhi, Dated 11th September, 1998

OFFICE MEMORANDUM

Subject. Special Benefits in cases of Death and Disability in Service – Payment of Ex Gratia lumpsum compensation to families of Central Government Civilian Employees who die in harness – Recommendations of the Fifth Central Pay Commission.

Central Government Civilian Employees paid from Civil Estimates, other than those to whom the Workmen's Compensation Act applies, who sustain injuries or contract diseases or die or are disabled or incapacitated on account of causes which are accepted as attributable to or aggravated by government service are eligible for certain special benefits under the Central Civil Services (Extraordinary Pension Rules). The benefits available under these Rules have been amended and liberalized from time to time. Separate orders have also been issued by Government to provide for the grant of Liberalized pensionary Awards in cases of death or disability arising in certain special circumstances, such as (i) attack by or during action against extremists, anti-social elements, etc., and (ii) enemy action in international war or border skirmishes. Instructions issued in this regard from time to time were consolidated in this Department's O.M.No.33/5/89-F&PW (K) dated April 9, 1990.

2. Orders were also issued in this Department's D.O.letter No.46/1/88-P&PW(F) dated November 24, 1988 in regard to payment of ex gratia lumpsum compensation to the families of Central Government employees killed in incidents of terrorist violence in Punjab. These orders were subsequently extended in this Department's D.O. letter No.46/1/88-P&PW(K) dated May 25, 1990 to the families of Central Government employees killed in terrorist violence in Jammu & Kashmir.

3. Apart from the general orders and instructions issued by this Department from time to time, individual ministries and departments such as the Ministry of Home Affairs, Ministry of Information & Broadcasting, etc. have also issued separate orders to provide for the payment of ex gratia compensation at the prescribed rates to the families of personnel of the Central Police Organisations, Akashwari, Doordarshan, etc. killed in the course of performance of their duties as a result of violence by armed hostile, extremists, terrorists, etc. or as a result of encounters with anti-social elements.

4. The question of rationalization and further liberalization of the existing schemes and guidelines has been engaging the attention of Government for quite some time, particularly in the context of the increase in militancy and extremist activities in different parts of the country. The Fifth Central Pay Commission having been appointed in the meantime, the Commission had been

requested to examine the existing benefits available in terms of various schemes and guidelines and to recommend a comprehensive policy that could be adopted in regard to ex gratia payments in cases of death in various circumstances in any part of the country, which could replace all isolated decisions that might have been taken in the past by the Government or by various individual ministries for different disturbed regions in the country.

5. In supersession of all earlier orders issued by Government as well as by individual ministries and departments in so far as these relate to the payment of an ex gratia lumpsum compensation in certain specified circumstances, the President is pleased to decide that families of Central Government Civilian employees who die in harness in the performance of their bonafide official duties under various circumstances shall be paid the following ex gratia lumpsum compensation:

- (a) Death occurring due to accidents in the course of performance of duties Rs. 5.00 lakhs

- (b) Death occurring in the course of performance of duties attributable to acts of violence by terrorists, anti-social elements, etc. Rs. 5.00 lakhs

- (c) Death occurring during (a) enemy action in international war or border skirmishes; and (b) action against militants, terrorists, extremists, etc. Rs. 7.50 lakhs

6. The graded structure of ex gratia lumpsum compensation takes into account the hardships and risks involved in certain assignments, the intensity and magnitude of the tragedy and deprivation that families of government servants experience on the demise of the bread-winner in different circumstances, the expectations of the employer from the employees to function in extreme circumstances, etc. The compensation is intended to provide an additional insurance and security to employees who are required to function under trying circumstances and are exposed to different kinds of risks in the performance of their duties.

7. Powers were delegated in the Ministry of Finance O.M.No.19(18)-EV(A)/66 dated February 26, 1966 to the appointing authorities to sanction awards under the relevant Extraordinary Pension Rules in those cases in which the proposed pension or gratuity is held to be clearly admissible under the rules. However, any awards proposed to be granted on ex gratia basis were to continue to be referred to the Ministry of finance as usual. In partial modification of these orders, in so far as they relate to ex gratia awards, the admissibility of and entitlement to the ex gratia lumpsum compensation in the circumstances specified in these orders may be decided in each individual case by the concerned Administrative Ministries themselves in consultation with their Financial Advisers.

8. The Conditions governing the payment of ex gratia lumpsum compensation in terms of these orders and the guidelines to be observed have been indicated in the Annexe to this Office Memorandum

9. The orders shall apply to all cases of death in harness occurring on or after August 1, 1997. In so far as cases of death, which occurred prior to August 1, 1997, are concerned, these shall be regulated and finalized in terms of the orders and instructions in force prior to the issue of these orders.
10. In so far as persons serving in the Indian Audit and Accounts Department are concerned, these orders issue in consultation with the Comptroller and Auditor General of India.
11. The Ministry of Agriculture, etc. are requested to bring the contents of this O.M. to the notice of all concerned for their guidance and compliance.
12. Hindi version will follow.


(S. LAKSHMINARAYANAN)

Additional Secretary to the Government of India

To

All Ministries/Department of the Government of India [As per standard Distribution List]

Copy [with usual number of spare copies] forwarded to C&AG, UPSC, etc. [As per standard Endorsement List]

**ANNEXE TO DEPARTMENT OF PENSION & PENSIONERS' WELFARE
O.M.NO.45/55/97-P&PW(C) DATED 11TH SEPTEMBER, 1998**

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**Conditions governing the payment of ex gratia lumpsum compensation and guidelines to be
observed**

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1. The main condition to be satisfied for the payment of the ex gratia lumpsum compensation in the specified circumstances is that the death of the employee concerned should have occurred in the actual performance of bonafide official duties. In other words, a causal connection should be established between the occurrence of death and government service.
2. Powers having been delegated to the Administrative Ministries to sanction ex gratia payments under these orders, it shall be their responsibility as well as that of the Financial Advisers to satisfy themselves that the death of the government servant to be compensated by the payment of the lumpsum ex gratia to the family in fact occurred in the actual performance of bonafide official duties and to establish its causal connection and nexus with government service. This could be done on the basis of medical and other documents relating to the case.
3. Even if a Government servant had died in such circumstances that a medical report could not be secured, the nexus and causal connection with government service would need to be adequately established in determining the entitlement to the ex gratia lumpsum payment. In deciding this issue, all evidence (both direct and circumstantial) shall be taken into account and the benefit of reasonable doubt given to the claimant. The benefit of reasonable doubt will be extended more liberally in field service cases, as provided in the guidelines for conceding attributability of disablement or death to Government service forming part of the Central Civil Services (Extraordinary Pension) Rules.
4. In cases of accidents to commercial aircraft resulting in the death of passengers, compensation is payable to the next of kin by the national or private airline concerned in terms of international conventions. The ex gratia lumpsum compensation in terms of these orders will therefore, not be admissible in addition in the event of death due to accidents while travelling on duty by commercial aircraft and shall be restricted only to those cases where death occurs in an accident while travelling on duty by service aircraft. The payment of ex gratia in these cases will be without prejudice to the bond required to be executed by the civilian government employees indemnifying the Government against any claims on account of death while travelling by service aircraft.
5. Railways also pay compensation to the next of kin of passengers killed in train accidents. Therefore, the ex gratia compensation admissible in terms of clause (a) of para 5 of these orders shall be reduced by the compensation, if any, received by the next of kin of Central Government Civilian employees killed in train accidents while travelling on duty.
6. Ex-Gratia compensation under clause (b) of para 5 will be admissible to police personnel killed while employed in aid of the civil administration in quelling agitations, protest demonstrations, riots, etc. regardless of whether such agitations, demonstrations, etc. are resorted to by

members of the public, political parties, etc. or by other public servants, including police personnel. In addition, in the context of a perceptible increase in violence-related incidents over the years, Central Government Civilian employees on duty could become unwitting victims of bomb blasts in public places or vehicles, indiscriminate shooting incidents in public, etc. often resorted to by terrorists, anti-social elements, etc. The compensation under clause (b) will also, therefore, be admissible in cases of death in such incidents, provided the employees concerned were actually on duty at the relevant time.

7. Cases of death resulting from acts of violence or assault by terrorists, anti-social elements, etc. against a Government servant with the intention of deterring or preventing him from performing his duties; or because of any act done or attempted to be done by such Government servant in the lawful discharge of his duties; or because of his official position will also be covered under clause (b).
8. Ex gratia compensation under clause (c) of para 5 will generally be restricted only to those cases where the death of the employees is directly caused by actual field operations. In addition, families of Central Government Civilian Employees killed after being kidnapped by militants, terrorists, extremists, etc. because of their official position or with a view to spreading terror will also be entitled to the compensation under this clause.
9. Few illustrative examples of cases to be covered under the different clauses of para 5 are contained in the Appendix for the guidance of sanctioning authorities. In case of any doubt in regard to the applicability of the ex gratia compensation scheme, such cases will be referred to the Department of Pension & Pensioners' Welfare for appropriate decision in consultation with the Department of Expenditure.
10. The ex-gratia compensation in the circumstances specified in these orders shall be admissible in addition to such other benefits as may be admissible under the Central Civil Services (Extraordinary Pension) Rules or the Liberalized pensionary Awards Scheme, as the case may be. This will also be mutually exclusive of such other benefits as may be admissible under the Central Government Employees' Group Insurance Scheme, General/Contributory Provident Fund, etc., and will be payable in addition to such benefits.
11. In determining the admissibility of the ex gratia compensation payable from Central Government funds, ex gratia payments, if any, made to families of the deceased Government servants from State funds by the State Government concerned shall not be taken into account and shall be excluded.
12. In certain cases, relief is also provided to families of deceased Government servants 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 10 lakhs in each individual case.
13. In view of the fact that the ex gratia compensation in terms of these orders is payable to the families of the deceased Government servants, default or contributory negligence, if any, on the part of the Government servants concerned shall not be taken into account in sanctioning the compensation.

14. Any related issue not specifically covered in these orders shall be decided in terms of the relevant provisions in this regard contained in the Central Civil Services (Extraordinary Pension) Rules as amended from time to time and the instructions issued thereunder.
15. Where any doubt arises as to the interpretation of the provisions of these orders, it shall be referred to the Department of Pension & Pensioners' Welfare for decision.

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**ILLUSTRATIVE EXAMPLES OF CASES COVERED UNDER DIFFERENT
CLAUSES OF PARA 5 OF DEPARTMENT OF PENSION & PENSIONERS'
WELFARE**

O.M.No.45/55/97-P&PW(C) DATED 11TH SEPTEMBER, 1998

[Refer Sl. No. 9 of Guidelines annexed to the O.M.]

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Clause (a) : Death Attributable to accidents while on duty

1. Death, as a result of an accident while travelling in a public, private or official vehicle or otherwise, of a Group 'D' employee, Despatch Rider, Messenger, Postman, Notice Server, etc. deputed to distribute dak, notices, etc., or of personnel on field duties.
2. Death occurring due to an accident while travelling on bonafide official duties in a service aircraft.
3. Accidents during test flights of aircraft and non-scheduled flights of chartered aircraft resulting in death of employees travelling on duty in public interest in such flights.
4. Death, in train accidents, of personnel undertaking official journeys on duty.
5. Accidents to ships, river steamers, etc. resulting in death of Government servants undertaking journeys on duty by these modes of travel.
6. Death, as a result of accidents, of personnel of Income Tax and Customs & Central Excise Departments, Central Police Organisations, etc. while proceeding on raids against tax evaders, anti-social elements, etc.
7. Death, due to contact with live electric/power lines, of personnel deployed on flood/cyclone relief activities.
8. Death, due to electrocution, of departmental employees engaged in rectification of defects in generation and distribution of electricity.
9. Accidents while engaged in rectification of defects in machinery and equipment.
10. Death due to accidental explosion of boilers, storage tanks of inflammable materials, chemicals, etc.
11. Death due to fire accidents while on duty.
12. Death of Fire Fighting Staff engaged in fire-fighting operations.

Clause (b): Death Attributable to acts of violence by terrorists, anti-social elements, etc.

1. Death resulting from acts of violence or assault by terrorists, smugglers, Dacoits, anti-social elements, etc. against an individual Government servant—
 - (a) with the intention of deterring or preventing him from performing his duties; or
 - (b) because of any act done or attempted to be done by him in the lawful discharge of his duties; or
 - (c) Because of his official position.
2. Personnel of Akashwani, Doordarshan, and other Central Government departments killed in the course of performance of their duties as a result of violence or attack by armed hostile extremists, terrorists, anti-social elements, etc.
3. Central Government employees, on duty, killed in incidents of terrorist violence in Jammu & Kashmir, the North Eastern Region, Punjab, etc. other than in actual operations and encounters.
4. Death, due to stone-throwing, use of weapons and other violent acts by demonstrators, anti-social elements, etc., of police and other civilian personnel while employed in aid of the civil administration in quelling agitations, protest demonstrations, riots, etc.
5. Death of personnel of Income Tax and Customs & Central Excise Departments, Police personnel, etc. while proceeding on raids against tax evaders, smugglers, anti-social elements, etc. attributable to attacks by the parties so raided, including anti-social elements.
6. Death of forest personnel engaged in anti-poaching and forest protection activities in encounters with poachers, timber smugglers, etc.
7. Death, while on duty, as unwitting victims of bomb blast in public places or vehicles, indiscriminate shooting incidents in public, etc. often resorted to by terrorists, anti-social elements, etc.

Clause (c): Death occurring during wars or border skirmishes and action against militants, terrorists, and extremists

The ex-gratia compensation under clause (c) of para 5 will be restricted only to those cases where Central Government employees are killed in actual field operations. A higher rate of compensation has been prescribed in these cases having regard to the magnitude of the hardships and risks involved in field operations, including combing operations against terrorists, militants, etc. This will generally be applicable only to the personnel of the Central Para Military Forces deployed along the borders, Line of Control, etc. as well as those engaged in combating terrorism. The condition of being actually involved in field operations will, therefore, have to be satisfied before the higher ex gratia compensation of Rs. 7.50 lakhs is sanctioned.

As indicated in para 5 of the O.M., compensation under this clause will be admissible to families of Central Government Civilian Employees killed—

- (i) in action in international wars;
- (ii) while fighting in war-like situations or border skirmishes with any country;
- (iii) in action against armed hostile, militants, terrorists and extremists;
- (iv) during laying or clearance of mines, including those laid by enemies, militants, terrorists, etc., as well as in the course of mine-sweeping operations;
- (v) as a result of exploding mines en route to an operational area;
- (vi) during battle inoculation as part of prescribed training exercises involving the use of live ammunition;

In addition, families of Central Government Civilian Employees killed after being kidnapped by militants, terrorists, extremists, etc. because of their official position or with a view to spreading terror will also be entitled to the compensation under this clause.
