

BIHAR HUMAN RIGHTS COMMISSION
9, Bailey Road, Patna – 15

File No **BHRC/COMP.** 3120/11

Case of **MD. MOKHTAR** (deceased)

The complaint in this matter is about the accidental death of one Md. Mokhtar son of Abdul Sattar, resident Neecha Tola, Hajipur P.S. Mufassil District Katihar – in course of target training by Jawans of the Railway Protection Force at Chanbari Butt (Katihar) on 24.10.2010.

The complaint was made by one R.H. Bansal to the National Human Rights Commission (NHRC). Director General, RPF/Railway Board submitted report to the NHRC to the effect that the case was under police investigation. The NHRC subsequently transferred the complaint to this Commission for disposal. On receipt of complaint report was called from the DG, RPF, New Delhi as well as the Range DIG and they submitted reports dated 26.3.2012 and 27.1.2012 respectively. Later report was called from S.P. Katihar about the status of Mufassil P.S. Case No.109/10 (lodged by deceased's brother Firoz Ahmad with respect to the incident) and he also submitted report dated 29.8.2012.

The matter was finally heard on 28.12.2012 in presence of Sri Shahid Ahmad, Chief Security Commissioner-cum-IG NF Railway Guwahati who appeared on behalf of Director General, RPF. The applicant did not appear but he sent his written submissions pursuant to notice of hearing.

Sri Shahid Ahmad stated that the place of occurrence i.e. the place where Md. Mokhtar was hit by bullet was about 2 kms. away from the firing range – beyond the effective range which is supposed to be 300 meters in the case of SLR, the weapon used for the purpose of practice firing. He also pointed out that the police had recovered 16 pellets (8 pieces of 7.62 mms. SLR and 8 pieces of 7.62 mms.x39 AK-47) from the place of occurrence suggesting firing by A.K.-47 – which was not the weapon used by the Jawans. He submitted that the possibility of the deceased being killed by criminals cannot be ruled out. The officer however conceded that the place of occurrence was straight in the direction of firing; that the deceased died of bullet injuries; that the time of firing and the time of death were approximately the same; and that there was record of wash out during the range firing.

It is relevant to mention that as per the report submitted by the Range DIG and the District Superintendent of Police, the case was found to be true against the RPF. From the DIG's report it appears that as per the Special Report – 03, the police gathered the particulars of the Jawans who had participated in the

practice firing from the office of the RPF Katihar vide memo no.33/RCPT-11 dated 3.3.2011. Jawans concerned were Sharavan Kumar, R.C. Hansda and Malay Sidhu of CB/CE Company, Katihar and Manoj Kr. Singh & Hare Krishna, Head Constables and Bal Akhtar. But it could not be ascertained as to whose fire hit the deceased causing his death. In the circumstances final report "case true but without any clues" under section 304A IPC was submitted.

While the identity or culpability of one or the other Jawan of the RPF may not have been fixed, there is little room for doubt that Md. Mokhtar died as a result of shot fired by RPF Jawans in course of practice firing. The points raised by Sri Shahid Ahmad are too technical and this Commission is not inclined to go into the technicalities where the complaint involves human right violation.

The deceased was a young man of 22 years. He was a bread earner of the family and justice demands that the bereaved family be monetarily compensated. In the facts and circumstances, the amount of compensation is quantified at rupees two lakh.

The Commission accordingly directs Director General, RPF, to pay compensation of rupees two lakh to the next-of-kin of deceased Md. Mokhtar within a period of six weeks and submit compliance report.

Put up in the first week of March 2013 awaiting compliance.

Copy of this order may be sent (i) Director General, RPF, Railway Board, Ministry of Railways, Rail Bhawan, New Delhi, (ii) Chief Security Commissioner-cum-DG NF Railway, Guwahati, (iii) Firoz Ahmad son of Abdul Sattar, Neecha Tola, Hajipur P.S. Mufassil District Katihar and (iv) Sri R.H. Bansal – on address mentioned in the page of the complaint (page 1/C).

Date: 2.1.2013

Justice S.N. Jha
Chairperson