SPC Guiding Case No. 241: Application by Huang [X]yi for Compensation for Injury Caused by the Unlawful Use of Weapons by Pingguo County Public Security Bureau

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Unofficial English translation prepared for reference only. The official Chinese text prevails.

Keywords

State compensation; compensation for injury caused by unlawful use of weapons; compensation for personal injury; payment period

Holding

Where a compensation claimant has already obtained state compensation for bodily injury and disability caused by the unlawful use of weapons by a staff member of a state organ, but, after the payment period or term of the disability compensation and other items has expired, necessary expenses such as nursing fees and expenses for disability daily living aids continue to arise, and the compensation claimant submits a new state compensation claim for such expenses, the people's court shall support the claim in accordance with law.

Basic Facts

In August 1997, a police officer of the Pingguo County Public Security Bureau of the Guangxi Zhuang Autonomous Region unlawfully used a weapon in the course of investigating a criminal case, accidentally shot and injured Huang [X]yi (a person not involved in the case), and caused his permanent disability, which was determined upon appraisal to be a grade-1 disability. On September 14, 1998, the Compensation Committee of the Baise Intermediate People's Court of the Guangxi Zhuang Autonomous Region rendered the compensation decision (1998) Bai Zhong Fa Wei Pei Zi No. 4: ordering the Pingguo County Public Security Bureau to compensate Huang [X]yi for medical expenses, hospitalization expenses, and loss of work income as of September 14, 1998 in the amount of RMB 98,230.63 (same currency hereinafter), and disability compensation of 201,722.4 yuan, totaling 299,953.03 yuan. After the decision took effect, the Pingguo County Public Security Bureau fully performed it.

In 2018, Huang [X]yi again applied for state compensation, requesting the Pingguo County Public Security Bureau to pay disability compensation and various expenses such as nursing fees and expenses for disability daily living aids totaling more than 1.5 million yuan. On June 15, 2018, the Pingguo County Public Security Bureau rendered the notice Ping Gong Pei Bu Shou Zi [2018] No. 001 of non-acceptance of the state compensation application, deciding not to accept it. The compensation claimant Huang [X]yi applied to the Baise Municipal Public Security Bureau for reconsideration on July 9, 2018, and the Baise Municipal Public Security Bureau rendered the criminal reconsideration decision Bai Gong Pei Fu Jue Zi [2018] No. 001 on July 16, 2018: affirming the non-acceptance decision Ping Gong Pei Bu Shou Zi [2018] No. 001 of the Pingguo County Public Security Bureau. The compensation claimant Huang [X]yi was dissatisfied and applied to the Compensation Committee of the Baise Intermediate People's Court of the Guangxi Zhuang Autonomous Region on August 13, 2018 for a state compensation decision.

Judgment

On November 13, 2018, the Compensation Committee of the Baise Intermediate People's Court of the Guangxi Zhuang Autonomous Region rendered the state compensation decision (2018) Gui 10 Wei Pei No. 5: (1) revoking the notice Ping Gong Pei Bu Shou Zi [2018] No. 001 of non-acceptance of the state compensation application of the Pingguo County Public Security Bureau and the criminal reconsideration

decision Bai Gong Pei Fu Jue Zi [2018] No. 001 of the Baise Municipal Public Security Bureau; (2) ordering the Pingguo County Public Security Bureau to continue paying the compensation claimant Huang [X]yi nursing fees, expenses for disability daily living aids, and other expenses totaling 497,277 yuan; and (3) dismissing Huang [X]yi's other state compensation applications. Both the Pingguo County Public Security Bureau and Huang [X]yi were dissatisfied and separately filed petitions with the Compensation Committee of the Guangxi Zhuang Autonomous Region High People's Court. The Compensation Committee of the Guangxi Zhuang Autonomous Region High People's Court separately rendered notices (2020) Gui Wei Pei Jian No. 2 and (2020) Gui Wei Pei Jian No. 5: dismissing the petitions of the Pingguo County Public Security Bureau and Huang [X]yi.

Reasoning

Article 34(1)(2) of the State Compensation Law of the People's Republic of China provides: "Where partial or total loss of working capacity is caused, the medical expenses, nursing fees, expenses for disability daily living aids, rehabilitation fees and other necessary expenses increased due to the disability, the expenses necessary for continued treatment, and disability compensation shall be paid. Disability compensation shall be determined according to the degree of loss of working capacity and the disability grade prescribed by the state, and shall not exceed twenty times the average annual wage of state employees in the preceding year. Where total loss of working capacity is caused, living expenses shall also be paid to the dependents who lack the capacity to work." In this case, given that Huang [X]yi had already obtained disability compensation of 201,722.4 yuan in 1998, which was the maximum ceiling of twenty times the average annual wage of state employees in the preceding year, his renewed application for disability compensation for the same fact of damage had no basis in law.

Although more than twenty years had passed since the incident, the harmful consequences caused to Huang [X]yi by the unlawful use of the weapon were still continuing, and given Huang [X]yi's disability grade, age, and health condition, the losses would continue and expand, constituting newly occurring damage. Huang [X]yi's claim for compensation for newly occurring damage arising from the same unlawful fact, namely compensation for the newly increased nursing fees, expenses for disability daily living aids, and other expenses, did not constitute repeated compensation. According to Article 14(2) of the Interpretation of the Supreme People's Court and the Supreme People's Procuratorate on Several Issues Concerning the Application of Law in Handling Criminal Compensation Cases (Fa Shi [2015] No. 24), which provides that "the nursing period shall be calculated until the citizen recovers the ability to live independently; where a citizen cannot recover the ability to live independently due to disability, a reasonable nursing period may be determined according to factors such as the citizen's age and health condition, generally not exceeding twenty years," and Article 15(1), which provides that "compensation for expenses for disability daily living aids shall be calculated according to the reasonable expense standard of ordinary applicable aids; where the injury has special needs, it may be determined by reference to the opinions of the aid fitting institution," Huang [X]yi's disability grade was grade-1 and he could not recover the ability to live independently, so his nursing fee compensation was determined to be 475,110 yuan (47,511 yuan × 10 years = 475,110 yuan) by reference to the 2017 Guangxi Zhuang Autonomous Region standards for road traffic accident damage compensation items, using the average annual wage of on-the-job employees of urban units in the resident services, repair and other services industries; Huang [X]yi's application for continued payment of expenses for disability daily living aids and other expenses totaling 22,167 yuan, which expenses actually existed and were necessary and reasonable, was supported in accordance with law.

Relevant Legal Provisions

Article 34 of the State Compensation Law of the People's Republic of China

Articles 14 and 15 of the Interpretation of the Supreme People's Court and the Supreme People's Procuratorate on Several Issues Concerning the Application of Law in Handling Criminal Compensation Cases (Fa Shi [2015] No. 24)

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