

RESERVED

**CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH**

Original Application No.21/919/2019



Hyderabad, this the 18th day of February, 2020

Hon'ble Mr. B.V. Sudhakar, Member (Admn.)

B. Parasuramulu, S/o. Yellaiah,
Aged about 53 years, Technician B (EC No. 714),
AS & DMG, National Remote Sensing Center,
Balanagar, Hyderabad.

... Applicant

(By Advocate: Mr. M.V. Praveen Kumar)

Vs.

1. The Administrative Officer (CHSS),
National Remote Sensing Center,
Balanagar, Hyderabad – 500625.
2. Union of India,
National Remote Sensing Center,
Balanagar, Hyderabad – 500625,
Rep. by its Director.

... Respondents

(By Advocate: Mr. V. Vinod Kumar, Sr. CGSC)

ORDER
{As per B.V. Sudhakar, Member (Admn.)}

2. The OA is filed challenging the decision of the respondents in rejecting to include the name of the daughter of the applicant in CHSS (Contributory Health Service Scheme).



3. Applicant joined as Cook on 04.06.1990 and later, was appointed as Canteen Boy-A though he applied for the post of Helper-A as per notification dt. 31.07.1990, in the respondents organisation on 28.09.1992 on temporary basis for a period of 3 months and continued, from time to time, till 1996. After rendering 4 years of service, his services were terminated without notice on 11.03.1996 and when it was challenged in the Hon'ble High Court, he was permitted to work w.e.f. 19.09.1996 in the post of Attendant-A, as per the interim orders dt.04.09.1996 issued in W.P.M.P No.6591/1996 filed in W.P. No.5350/1996. Later, the said Writ Petition was allowed on 29.12.2003, wherein the services of the applicant were directed to be regularised in Attendant-A post in the vacancy that arose after 1992 with consequential benefits. Accordingly, applicant services were regularised as Attendant- A from 29.02.1996. Thereupon applicant made a request for inclusion of the name of his daughter who is the 3rd child born on 22.08.1995 for CHSS facility which was rejected on 26.03.2019 by applying the amended CHSS rules which came into vogue from 30.04.1995. The applicant claim is that since he joined the respondents in 1990 or for that matter even if his reinstatement in 1992 is taken into consideration, the 3rd child name has to be included for CHSS

facility, rules of which were amended only in 1995. Aggrieved over rejection of his claim the OA has been filed.



4. The contentions of the applicant are that as per settled law a rule will have prospective effect and not retrospectively. By non inclusion of the name of the 3rd child under CHSS the welfare of the child would be adversely effected. Respondents have erred in taking the reappointment date as 29.02.1996 instead of taking the date of entry as 04.06.1990 or 28.09.1992. Juniors to the applicant were granted the facility of CHSS whereas he was denied.

5. Respondents oppose the contentions of the applicant by stating that the services of the applicant as canteen boy were dispensed from 01.03.1996 as there was no work in the canteen. However, when the termination was challenged, the applicant was reinstated on 19.09.1996 and his services regularised w.e.f 30.07.1997 as Attendant complying with the orders of the Hon'ble High Court in W.P no 5350/1996 and the related W.P.M.P. Besides, the applicant did apply for canteen boy-A as his evidenced by exhibit R-1 and not as Helper-A as claimed. The appointment was made on a temporary basis which was terminated on 01.03.1996 without giving notice as per terms and conditions of the offer of appointment but reinstated on 4.09.1996 and services regularised in 1997 as per orders of the Hon'ble High Court cited supra. Further applicant's services as a cook on a daily wage basis since 1990 and in continuation as a canteen boy on a temporary basis cannot be reckoned for extending

CHSS facility. The benefits of the Contributory Health Service Scheme are granted only to regular employees and that too only up to two children from 1st May 1995. Therefore the claim of the applicant for CHSS facilities to the 3rd child could not be entertained.



6. Heard both the counsel and perused the pleadings on record.
7. I) The dispute is in regard to granting of CHSS facility to the 3rd child of the applicant under contributory Health Service Scheme (CHSS). Services of the applicant, in compliance with the orders of the Hon'ble High Court were regularised in the cadre of Attendant from 30.07.1997. As per CHSS manual children of regular employees up to the extent of two are eligible to be brought under CHSS, who joined the respondent's organisation on or after 01.05.1995. The relevant portion of the CHS Scheme i.e. clause 2(b) of Chapter 2 is extracted here under for reference.

"In respect of those employees who have joined DOS/ISRO on or after 01.05.1995, the total number of unmarried sons/ step-sons below the age of 25 years, unmarried sons/ step sons (physically handicapped or mentally retarded) and unmarried/ widowed/ divorced/ legally separated daughters/ step daughters not to exceed 2. The benefits under the Scheme shall, however, be admissible to all such children born to an employee in two deliveries, provided that the number of living children just before the second delivery does not exceed one."

As seen from the above, the 3rd child of the applicant cannot be brought under CHSS since his services were regularised only from 30.07.1997. Facilities under the scheme are not available for temporary employees appointed on a short duration of not exceeding 3 months as per Dept. of

Space O.M No. 3/1 (22) /83-IV dated 12.12.1984. The applicant was appointed as a cook as a daily wager and later continued on a temporary basis as Attendant –A from time to time till 1996. Thereafter on being terminated for lack of work on 1.03.1996 he was reinstated to duty on the intervention of the Hon'ble High Court on 19.09.1996. Therefore the applicant has no ground to claim for CHSS for the 3rd child since he was a temporary employee till 1996 and further for employees whose services were regularised after 1.05.1995 the CHSS facility is available only to the extent of a maximum of 2 children. Applicant's services in attendant grade were regularised in 1997 and hence the 3rd child is not eligible to be brought under the CHSS scheme. The claim of the applicant that he has joined the respondents organisation in 1990 or 1992 nor the date of the birth of the 3rd child or his juniors getting the benefit is relevant but what is relevant is the date of regularisation of his services which happened in 1997 and as per CHSS manual the 3rd child of the regular employees who joined in or after 1995 is ineligible for CHSS facility. It is well settled principle of law that rules are to be adhered to. In fact Hon'ble Apex Court has emphasised the need to strictly follow the rules in a catena of judgments as under:

*The Hon'ble Supreme Court observation in **T.Kannan and ors vs S.K. Nayyar** (1991) 1 SCC 544 held that "Action in respect of matters covered by rules should be regulated by rules". Again in **Seighal's case (1992) (1) supp 1 SCC 304** the Hon'ble Supreme Court has stated that "Wanton or deliberate deviation in implementation of rules should be curbed and snubbed." In another judgment reported in (2007) 7 SCJ 353 the Hon'ble Apex court held "the court cannot de hors rules"*



Respondents acted as per Rules and the Tribunal does not find any error in their decision in not including the 3rd child under CHSS.

II) In view of the aforesaid circumstances, there is no merit in the OA and hence, the same is dismissed, with no order as to costs.



**(B.V. SUDHAKAR)
MEMBER (ADMN.)**

/evr/