



**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

OA No. 238/2019

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Reserved on: 13/02/2020

Pronounced on: 12/03/2020

Hon'ble Mr. Mohd. Jamshed, Member (A)

1. Manjeet Kaur, aged 72 years, W/o G. S. Sahota, Retired Teacher, Department of Education, Administration of Andaman and Nicobar Islands, now residing at 2/330, Third Floor, Subhash Nagar, New Delhi – 110027. (Group – C).
2. R.C. Pandey, aged 74 years, S/o late Mr. R. S. Pandey, Retired, Lecturer, Government Polytechnic, Portblair, Andaman and Nicobar Islands, presently residing at C/o. Shri G.S. Sahota, 2/330, Third Floor, Subhash Nagar, New Delhi – 110027. (Group – A).
3. Vinod Kumar, aged 67 years, S/o Late Mr. Vijay Kumar Singh, Retired Vice Principal, Department of Education, Administration of Andaman and Nicobar Islands, House No. 48, 2nd Floor, Gali No. 7, New Mahavir Nagar, Tilak Nagar PO, New Delhi – 110018. (Group – B).

...Applicants

(By Advocate: Mr. Saurabh Bhargavan)

Versus

1. Union of India, represented by the Secretary to Government of India, Department of Health and Family Welfare, New Delhi – 11001.
2. Director General of Central Government Health Scheme, Department of Health and Family



Welfare, Government of India, Nirman Bhavan,
New Delhi 110011.

3. Additional Director, Central Government Health Scheme, Kendriya Sadan, Kormangla, Bangalore 560034.

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4. Additional Director, Central Government Health Scheme, Sector-12, Rama Krishna Puram, New Delhi – 110022.

...Respondents

(By Advocate: Mr. Ashish Rai)

ORDER

Mohd. Jamshed, Member (A):-

The applicants in this OA are retired employee of the Administration of Union Territory of Andaman & Nicobar Island. Applicant Nos. 01 and 02 after their retirement had been issued CGHS cards and were availing CGHS facilities post retirement. The CGHS facilities for applicant Nos. 01 and 02 were withdrawn w.e.f. 29.09.2017 and 21.09.2017, respectively. The applicant No. 03 did not have a CGHS card but had applied for the same. The request of applicant No. 03 for enrolment in CGHS scheme was also rejected by the respondents on 21.12.2018. The Tribunal vide order dated 21.01.2019 directed the respondents to continue to provide medical facilities under CGHS scheme to applicant Nos. 01 and 02 till the next date of



hearing and since then this interim relief continues.

2. The facts of the case as stated in the OA are Page | 3
that the applicants are Central Government pensioners who retired from service under the administration of Union Territory of Andaman & Nicobar Island. Post retirement, these applicants are residing in Delhi. The applicant No. 02 is a permanent resident of Bangalore. It is stated that both Delhi and Bangalore are covered under the CGHS scheme. In view of their stay in these places they are also not availing of the fixed medical allowance otherwise available to Central Government pensioners. It is submitted that those who retired from Union Territory of Andaman and Nicobar Island and residing elsewhere are required to give an option to either choose CGHS facility or to receive fixed medical allowance and the applicant Nos. 01 and 02 applied for and obtained CGHS card valid for life by paying one time contribution as prescribed. Applicant Nos. 01 and 02 have since been receiving all facilities from CGHS. The applicant No. 03 who had not enrolled



under the CGHS, made repeated request for same, however, his application was not accepted.

3. The respondents vide OM dated 21.07.2017 stated that serving employee/pensioners of Union Territory are not entitled to CGHS facilities and the cards issued to them was by mistake and such cards are to be cancelled by giving one month's notice. Respondents vide letter dated 28.08.2017 advised the applicant No. 01 that in view of OM dated 21.07.2017 cards issued inadvertently to him are being cancelled. Vide letter dated 29.09.2017 on completion of one month's notice period, the respondents advised applicant No. 01 that her CGHS pensioner card has been deleted from the database. The applicant No. 02 was also advised vide letter dated 18.08.2017 that he is not entitled for CGHS facilities in terms of OM dated 21.07.2017 and, therefore, his card will be withdrawn w.e.f. 21.09.2017. The request of applicant No. 03 for issue of CGHS card was rejected by respondents vide letter dated 21.12.2018. The applicants are aggrieved by this action on part of the respondents that their CGHS facilities have been stopped after almost 10 year



suddenly, causing them serious problems. It has also been contended by the applicants that the persons eligible under the CGHS scheme include all Central Government employees paid from Civil Estimates (except Railways and Delhi Administration) including their families. The employees of the Union Territory are also Central Government servants paid from Civil Estimates as in terms of Article 239 of the Constitution of India, a Union Territory is administered by the President of India acting through an Administrator. The rules of Central Government employees are applicable to Union Territory employee also. Thus, those retiring from the Union Territories are paid pension from the funds of Union Government. The pension is given under CCS (Pension) Rules, 1972. It is further submitted that only the personnel from Railways and Defence and armed forces are excluded from the ambit of this rule. It is also submitted that the applicant No. 01 and applicant No. 02 had paid a lump sum payment of Rs. 39000/- and Rs. 78,000/- respectively as one time payment for availing of facilities of CGHS scheme. Although it is advised by the respondents that the



balance amount will be paid, no such action is taken by the respondents in this regard. Applicant Nos. 01 and 02 are also not availing the fixed medical allowances available to Central Government Pensioners. Aggrieved by all these actions the applicants filed the present OA seeking the following reliefs:-

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“(i) To call for the records leading to Annexure A1 to A5 and quash the same;

(ii) To declare that the applicants are entitled for being covered under the Central Government Health Scheme and direct the respondents to extend all the benefits of the Scheme to the applicants 1 and 2 based on their registration and to direct the respondents to permit the 3rd applicant to register under the Central Government Health Scheme and grant him all benefits thereof.”

4. During the arguments it was pleaded by learned counsel for the applicant that they he will not be pressing for relief No. 01 and the main relief sought is relief No. 02.

5. The respondents vide their counter affidavit opposed the OA by submitting that this OA has been filed by three applicants who have retired and served under Administration of Union Territory of Andaman and Nicobar Islands. The applicant Nos. 01 and 02 were issued CGHS card inadvertently. However, these facilities were



withdrawn after directives were received from Directorate of CGHS. The applicant No. 03 was neither getting CGHS facilities nor issued CGHS card. It is also stated that as per the guidelines issued from Directorate of CGHS, Ministry of Health and Family Welfare, CGHS pensioners cards are issued to the Central Government Pensioners, whose pension is debitable from Central Civil Estimates under Major Head but in the case of retiree of Andaman and Nicobar Island though they are drawing pension from Central Civil Estimate but their pension is funded from Ministry of Home Affairs. Due to inadvertent mistake some CGHS cards had been issued to retirees of Administration of Union Territory of Andaman and Nicobar Island including applicants. However, the Directorate of CGHS issued OM dated 21.07.2017 for withdrawal of the services to such persons after giving one month's notice. Keeping in view the instructions contained in the OM, necessary steps have been taken and the CGHS facilities of applicant Nos. 01 and 02 have been withdrawn and request of applicant No. 03 for issuance of CGHS card was rejected. It is also



submitted that the matter was referred to Ministry of Home Affairs (UT) for clarification regarding the status of Pensioners of Union Territories. The Ministry of Home Affairs vide their letter dated 20.09.2019 clarified that the employees of Union Territory Administration are not entitled to CGHS facilities. Therefore, there is no illegality in the action taken by the respondents as there is no legal claim of the applicants in this regard.

6. Heard Mr. Saurabh Bhargavan, learned counsel for the applicant and Mr. Ashish Rai, learned counsel for the respondents, perused the pleadings and the documents on record.

7. The applicants retired from the service of Administration of Union Territory of Andaman and Nicobar Islands. Applicants Nos. 01 and 02 joined CGHS Scheme by paying a one time lump sum amount as required. They are residing in Delhi and have been availing the CGHS facilities. The applicant No. 03 who has also retired had applied for issuance of CGHS card. The Directorate of CGHS, Ministry of Health and Family Welfare vide OM Dated 21.07.2017 clarified that serving



employees/pensioners of Union Territories are not entitled to CGHS facilities. The OM reads as under:-

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“OFFICE MEMORANDUM

Subject:-serving employees/pensioners of Union Territories are not entitled to CGHS facilities.

With reference to the above mentioned subject it has come to the notice that some CGHS cards were inadvertently issued to pensioners of Union Territories in some cities. In this regard, it is clarified that Serving employees/Pensioners of Union Territories are not entitled to CGHS facilities care must be taken to ensure that CGHS cards are not issued to such individuals. In such cases, where CGHS cards were issued inadvertently the individuals concerned may be informed of the mistake and cancel such cards with a notice of one month's grace period and the balance CGHS subscription for the remaining years may be returned to such individuals.”

8. Directives were also issued through this OM that CGHS cards which have been inadvertently issued to pensioner of Union Territories in some cities should be cancelled by giving one month notice and the balance CGHS subscription may also be returned to such individuals. Respondent No. 04 issued a notice in terms of OM dated 21.07.2017 and the facilities extended to applicants Nos. 01 and 02 were withdrawn by deleting the CGHS cards issued to them from the database w.e.f. 29.09.2017 and 21.09.2017 respectively. The application given by the applicant No. 03 for issuance of such a CGHS



card by quoting judgment of Ernakulam Bench of this Tribunal in OA No. 180/00683/2017 dated 11.09.2018 was considered and rejected by the respondents vide letter dated 21.12.2018 stating that the order dated 11.09.2018 of the Ernakulam Bench of Tribunal in OA No. 180/00683/2017 is applicable in respect of the applicants in that case only. Learned counsel for the applicant argued that the CGHS scheme is applicable to all Central Government employees paid from Civil Estimates (except Railways and Delhi Administration) including their families. He further stated that employees of the employees of the Union Territories are appointed by the Administrator exercising delegated powers of the President himself. The rules governing the employees and their service conditions are promulgated by the Union Government and their salary is paid by the union Government from the Civil Estimates. Segregating the retired employee of Union Territories of Andaman and Nicobar Island from other Central Government employees who are availing CGHS facilities is discriminatory and



violative of Article 14 and 16 of the Constitution of India.

09. It is also a fact that the applicant Nos. 01 and 02 have paid one time lump sum amount for life time coverage and after many years this facility has been cancelled on the basis of OM dated 21.07.2017. Judgment of Ernakulam Bench of this Tribunal in OA No. 180/00683/2017 dated 11.09.2018 has been relied upon. In this OA, the applicants had retired from Union Territories of Lakshadweep and sought benefit of CGHS which had been refused to them despite the fact that they were settled in Thiruvananthapuram which is covered under the CGHS. Their case was rejected by the respondents stating that the applicant had retired from Union Territory of Lakshadweep administration. Their recruitment was also by the Union Territory of Lakshadweep. The facilities were extended to them inadvertently and the same has been withdrawn in terms of OM dated 21.07.2017. After detailed deliberation the Tribunal allowed the OA No. 180/00683/2017. The operative paras of which reads as under:-

“..16. Thus, considering all facts and circumstances and legal position placed before



us, we come to the conclusion that the present O.A. has merit on its side and deserves to be allowed and reliefs prayed for is granted. Applicants herein are entitled for C.G.H.S. facilities on payment of prescribed charges/fee. Original Application is allowed accordingly. Respondents are hereby directed to grant the benefits of C.G.H.S. facilities to the applicants herein with immediate effect and the order shall be implemented at any rate within a period of 30 days from the date of receipt of a copy of this order.”

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10. The Tribunal allowed the OA and the relief prayed for was granted. The respondents were directed to grant benefit of CGHS facility to the applicant with immediate effect. The stand taken by respondents in this OA is not different. They have also submitted that in terms of OM dated 21/07/2017 the cards which were inadvertently issued have been withdrawn. They have also quoted Ministry of Home Affairs (UT) letter dated 20.09.2019, which is in the form of clarification. The clarification is reproduced below:-

“(a) Medical benefits being extended to serving employee UTs (A & N Island):

“The serving employees are extended with the facilities of medical reimbursement as per CCS Medical Attendane Rules.”

“(b) Medical benefits being extended to pensioners of UT Administration (A & N Island):

“The retired Government employees/pensioners of this UT are provided with fixed medical allowance of Rs. 1000/- per month, as per CCS Pension Rules, 1972.”



(c) Whether Serving employees of UT Administration are availing facilities of CGHS or otherwise [relevant rule provision to mentioned] (A & N Island):

“No, since facilities of CGHS is not available in the UT of A&N Islands, the same has not been extended to the employees of UT Administration.”

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(d) Status of medical benefits, extended to UT pensioners residing outside the Union Territory. (A & N Island):

“The UT pensioners are provided with the fixed medical allowance of Rs. 1000/- per month as per CCS Pension Rules 1972. Other than it, no other medical benefit is extended to them.”

11. From the averments made and the grounds mentioned in the counter affidavit and the arguments made by the respondents, it is evident that this matter has not yet reached finality. Para-6 of the counter affidavit highlight this fact.

Relevant portion of para-6 reads as under:-

“6. That as per record of discussion of the meeting held on 14.08.2019 under the Chairmanship of Addl. Secretary (UT), MHA, to discussed status of pensioners/employees of Union Territories and extending CGHS facilities to UT pensioners, the representative of DoPT stated the terms “Central Government Employee’ has not been defined. The issue regarding status of UT employees has to be examined separately, in depth with detailed analysis.”

12. The fact that the order in OA No. 180/00680/2017 which is an identical matter to OA No. 180/00683/2017 relied upon by the applicants was considered by the respondents and the orders withdrawing the facilities already extended to the applicants Nos. 01 and 02 were



passed as can be seen in the letter dated 21.12.2018 issued by the respondents rejecting the application for issue of CGHS card of the applicant No. 03 stating that the benefit extended vide judgment dated 11.09.2018 is applicable in respect of the applicants in that OA only.

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13. The present OA is entirely covered by the judgment of Ernakulam Bench in OA No. 180/00683/2017 dated 11.09.2018. The claim of applicant Nos. 01 and 02 is fully justified as they had also paid the required amount towards CGHS Scheme and have been availing this facility for the last many years. Having extended this facility for such a long period of time, sudden decision to stop this facility by cancelling their cards is not tenable.

14. We, therefore, allow the OA directing the respondents to grant the benefits of CGHS facilities to the applicants herein with immediate effect and the orders shall be implemented within a period of two months from the date of receipt of certified copy of this order. As the applicant No. 03 has not been issued any CGHS card, his plea is not tenable for issuance of such card as that would be covered



in terms of the policy being followed by the respondents now. Pending MAs, if any, shall stand disposed of.

There shall be no order as to costs.

(Mohd. Jamshed)
Member (A)

/Ankit/