

Central Administrative Tribunal
Principal Bench

O.A. 1408/99

New Delhi this the 27th day of July, 2000

Hon'ble Smt. Lakshmi Swaminathan, Member(J).

Anand Prakash Gupta,
R/o D-1, UNESCO Apartments,
Patparganj,
Delhi-110092.

... Applicant.

(By Advocate Shri B.N. Singhvi, Sr. Counsel with Shri
Sunil Kumar)

Versus

1. Union of India through
Department of Family Welfare,
Nirman Bhawan,
New Delhi.

2. The Secretary,
Ministry of Family Welfare,
Govt. of India,
Nirman Bhawan,
New Delhi.

... Respondents.

(By Advocate Shri Madhav Panikar)

O R D E R (ORAL)

Hon'ble Smt. Lakshmi Swaminathan, Member(J).

The applicant, who retired from Govt. service with the respondents on 31.3.1978 when he was drawing a basic pay of Rs.1700/- per month, is aggrieved by the action of the respondents in not reimbursing him certain medical bills for treatment of his wife in a private ward.

2. The applicant states that at the time of his retirement as Manager-Procurement, Delhi Milk Scheme, he was in the pay scale of Rs.1300-1700 and was drawing the maximum in that scale, that is Rs.1700/- per month. Shri B.N. Singhvi, learned Sr. counsel for the applicant has submitted that a statement was issued by the Pay and Accounts Officer, DMS dated 18.11.1998, copy placed on record. In this

13/

statement, he has stated that the applicant's pay was fixed at Rs.3875/- per month on notional basis as on 1.1.1986, that is, after the 4th Pay Commission. The applicant's wife was hospitalised in a private ward for treatment in July, 1995. According to him, his pay scale having been revised with effect from 1.1.1986 from Rs.1300-1700 to Rs.3500-5000, he was entitled to re-imbursement of medical bills, as paid by him in a private ward. He had made a number of representations but having not received any favourable reply he has filed this O.A.

3. Shri B.N. Singhvi, learned Sr. counsel for the applicant, has relied on a letter issued by the Addl. Director, CGHS dated 9.1.1997, in which it has been stated that as the applicant was drawing a pay of Rs.1700/- at the time of his retirement, he was entitled for medical reimbursement in a private ward. There is no dispute that the treatment given to the applicant's wife was in an approved hospital. The applicant has stated that at the time of his retirement he was contributing to Central Government Health Scheme (CGHS) Rs.9/- per month and after his retirement Rs.5/- per month. He has relied on the Govt. of India, Department of Family Welfare, New Delhi O.M. dated 1.2.1989, para 'D' of which provides, inter alia, that a Central Government employee availing of CGHS facilities whose pay is from Rs.3501/- and above, is entitled to private ward. Shri Singhvi, learned counsel has submitted that as seen from the statement issued by the concerned authorities regarding the pay of the applicant, he had been fixed at the notional pay of Rs.3875/- per month as on 1.1.1986 which, therefore, clearly entitles him to private ward facilities for himself

and his dependents. He has, therefore, prayed that a declaration may be given to the effect that the applicant is entitled to private ward facilities as per the policy of the respondents contained in O.M. dated 30.10.1974 and circular dated 1.2.1989.

4. The respondents in their reply have controverted the above averments. According to them, as per the O.M. dated 30.10.1974, a person who is a CGHS card holder and is contributing Rs.5/- per month is entitled for Nursing Home facilities only. They have stated that this contribution of Rs.5/- instead of Rs.9/-, which he was paying was based on the pension amount drawn by the applicant which, therefore, entitles him to Nursing Home/semi private ward and not to private ward facilities. Regarding the letter issued by the Addl. Director, CGHS dated 9.1.1997, relied upon by the applicant, they have submitted that this was merely ^a ~~replied~~ based on the facts given by the applicant which confined itself only to the pay drawn and not to the contribution made to the CGHS. Shri Madhav Panikar, learned counsel, has submitted that the action taken by the respondents in rejecting the claim for private ward facilities is in accordance with the relevant O.M. dated 30.10.1974 and he has, therefore, prayed that the O.A. may be dismissed.

5. I have heard Shri Singhvi, learned counsel in reply, who has submitted that the respondents ought to go by their own O.M. dated 1.2.1989 in which they have allowed the facilities of a private ward under the Central Government Health Scheme for persons, who are drawing the pay from

9/

Rs.3501/- and above. He has also submitted that this aspect of the matter has not been kept in view by the respondents who had only gone by ~~the P^{re} contribution~~ ^{made by} by the retiree.

6. In the facts and circumstances mentioned above, taking into account the pleadings and submissions made by the learned counsel for the parties, it is considered appropriate that the respondents should reconsider the case in the light of the statement showing the pay drawn by the applicant at the relevant time, that is after 1.1.1986. Accordingly, O.A. is disposed of with the following directions:

Respondent 2 is directed to reconsider the case of the applicant for medical reimbursement in private ward, in accordance with the aforesaid relevant rules and instructions. Necessary action in this regard shall be taken within two months from the date of receipt of a copy of this order, with intimation to the applicant. No order as to costs.

Lakshmi Swaminathan

(Smt. Lakshmi Swaminathan)
Member(J)

SRD