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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH,
NEW DELHI.

C.A.No.424/95

New Delhi: this the 22nd February, 1996.

HON'BLE MR.S.R.ADIGE, MEMBER (A).

Shri Hari Shanker,
S/o Shri Siva Presad,
R/O 101, Pushpanjali, Vikas Marg
Extension, Delhi-92.Applicant.

By Advocate Shri Gyan Prakash.

Versus

1. Union of India, through
Secretary,
Ministry of Health,
Nirman Bhawan,
New Delhi- 110001.

2. Director General of Health and Medical
Services,
Ministry of Health, Nirman Bhawan,
New Delhi-110001 .

3. Additional Director,
Central Govt. Health Scheme,
Nirman Bhawan,
New Delhi.Respondents.

By Advocate Shri M.K.Gupta.

JUDGMENT

By Hon'ble Mr. S.R.Adige, Member (A).

I have heard Shri Gyan Prakash for the
applicant and Shri M.K.Gupta for the respondents.

2. The respondents have not denied that the
applicant Shri Hari Shanker who retired on superannuation
as Deputy Commissioner of Income Tax on 30.6.86,
and was issued CGHS Token Card No.431580 on 24.10.86
as a Govt. pensioner, subsequently got his CGHS Card
renewed from time to time by paying annual subscription,
the last such validation being upto 30.6.93 , The
applicant appears to have gone to Calcutta on

19.8.93 where suddenly he suffered a severe heart attack and underwent bypass surgery on 25.9.93, thereby being compelled to incur an expenditure of Rs.1,20,838/- on treatment.

3. The respondents have refused the applicant's reimbursement, on the ground that the validity of the CGHS Token Card No.431580 having expired on 30.6.93, and the applicant having got it renewed only on 16.10.93 (valid upto 30.6.94), he was not a CGHS beneficiary during the period 1.7.93 to 15.10.93, and therefore cannot claim reimbursement of the expenditure incurred by him over the heart operation conducted on 25.9.93. It is also contended that before his departure from Delhi to Calcutta on 19.8.93 the applicant should have obtained a permit from CGHS authorities in Delhi, authorising him to avail CGHS facilities at Calcutta in accordance with the contents of DP & I's J.M. dated 17.12.90, and as he failed to do that, he is not entitled to reimbursement.

4. I have perused the materials on record and have given careful consideration to the matter.

5. The applicant in his rejoinder has stated that after initial issue of the CGHS Card on 24.10.86, it was renewed on different occasions implying that the CGHS authorities had been accepting the annual payments for renewal of the card on different dates and had been renewing the CGHS Card from the beginning of the current year of reckoning, irrespective of the date of payment of yearly

contribution. It has been stated that during the course of each of past renewals, the yearly period of validity had invariably ^{been} shown as valid upto 30.6.93, 30.6.94 or 30.6.95 i.e. even if there was a delay in renewal. During the year the CGHS authorities did not raise any objection but renewed the CGHS card retrospectively from 1st July after receiving the payment of yearly contribution. Having accepted the payment for the year ending 30.6.94 and stamping validity of the card for that year, it automatically follows that as per past practice the CGHS authorities had renewed the card w.e.f. 1.7.93 to 30.6.94. Had the date of payment been crucial then contribution should have been accepted from the date of payment i.e. 16.10.93 to 30.6.94 i.e. for 8½ months and not for full year, but the contribution Rs.108/- @ 9% p.m. ^{1/4th dependent} was accepted for the full year and stamped the validity till 30.6.94 (1.7.93 to 30.6.94). The applicant has also pointed that as per latest instructions dated 10.6.91 (Annexure-R1), the pensioners holding CGHS cards on which the photographs (along with those of dependent members of the family) are affixed, will not require any temporary permit but will be given CGHS facilities on the basis of CGHS cards with photographs in all cities having CGHS facilities. It has also been pointed out that the applicant had not violated any rules or instructions on CGHS facilities which would entitle the respondents to deny him the benefit of reimbursement.

6. It has ^{also} been argued that the CGHS facility is a welfare measure, and the Hon'ble Supreme Court in

Regional Director, ESIC, Trichur Vs. Ramanuj Match Industry- AIR 1985 SC 278 has held that " the Court should not interpret a beneficial legislation occurring in a statute in such a way that the benefit would be withheld from employees. A beneficial legislation should have liberal construction with a view to implementing the legislative intent." A similar ruling has been made in Internation Ore & Fertilizers (P) Ltd. Vs. ESI Corporation- 1987 (4) SCC 203 and Directorate of Enforcement Vs. Deepak Mahajan & another - 1994(3) SCC 440, wherein it has been held that the cardinal principle of law is that every law is designed to further the ends of justice but not to frustrate on the mere technicalities and it is the duty of the court to mould or creatively interpret the legislation by liberally interpreting the statute.

7. In the light of what has been stated above, it is difficult not to agree with the applicant. He is a pensioner who is in the very evening of life. He had gone to Calcutta where he suffered a very severe heart attack necessitating a heart bypass surgery which was performed on 25.9.93 and post operation treatment as a result of which he had to incur expenditure amounting to Rs.1,20,838/-. Even if the validity of the CGHS Card expired on 30.6.93, it must be remembered that when the applicant got it renewed on 16.10.93, he renewed it for the entire block of 12 months by paying Rs.108/- at the rate of Rs.9/- p.m. By accepting the sum of Rs.108/- and stamping the card as valid upto 30.6.94 (as per body of the card) it implies that the respondents treated the card as valid from 1.7.93 to 30.6.94. If they had treated the

card as valid only for the period 16.10.93 to 30.6.94 they should not have accepted the renewal fees for the entire year ending 30.6.94. Alternatively if they renewed it for 12 months w.e.f. 15.10.93 they should not have stamped it as valid until 30.6.94 only. Furthermore in the background of the various Hon'ble Supreme Court's rulings, cited above, the CGHS Scheme which is a social service and welfare oriented measure, has to be interpreted in such a manner as not to deny the medical reimbursement for bonafide emergency situations such as the present one. The respondents have also not referred to any violation of a specific rule or instruction by the applicant, and I also note that the applicant informed the respondents of his operation soon after he was discharged from the hospital.

8. In the result the OA is allowed to the extent that the respondents are directed to reimburse the applicant for those items of medical expenditure incurred by him in respect of his operation and treatment at the B.M.Birla Heart Research Centre, Calcutta, as are reimbursable under rules. These directions should be implemented within 2 months from the date of receipt of a copy of this judgment. No costs.

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(S.R.ADIGE)
MEMBER(A).