

CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH

O.A.No.2769/97

New Delhi: this the 11 day of December, 1998.

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

Shri K.K.Singhal,
 S/o Late Prem Kumar,
 R/o 1438, Sector - A,
 Pocket - B, Vasant Kunj,
 New Delhi -070
 (By Advocate: Shri V. Shekhar)..... Applicant.

Versus

1. Union of India
 through Chairman,
 Railway Board,
 Rail Bhawan,
 Rafi Marg,
 New Delhi -01.
2. The General Manager (Pers.),
 Northern Railway,
 Baroda House,
 New Delhi-01.
3. The Medical Director,
 Central Hospital,
 Northern Railway,
 New Delhi-055
 Respondents.

(By Advocate: Shri R.P. Agarwal)

ORDERHON'BLE MR. S. R. ADIGE, VICE CHAIRMAN (A).

Applicant impugns respondents' order dated 20.8.97 (Annexure- F) and seeks reimbursement of the medical expenses claimed by him.

2. Applicant retired from Northern Railway on 31.8.87 consequent to Angina attack in July, 1994 and September, 1994 he was referred by Chief Cardiologist, Central Railway Hospital, New Delhi to AIIMS when he incurred total expenditure of Rs.1,51,131-74P. Applicant applied for reimbursement and was admittedly reimbursed Rs.75,365/- being 50% for admissible items of the expenditure incurred

by him vide para 5.1 of Circular dated 8.11.88 (Annexure-B) introducing the Retired Employees Liberalised Health Scheme. Applicant contends that the Hon'ble Supreme Court in their order dated 17.12.96 in CA No.16979/96 State of Punjab & Ors. Vs. M.S. Chawla & Ors., while upholding the Punjab & Haryana High Court's order allowing that officer's claim for actual expenses incurred by him over payment for room rent for his stay while undergoing treatment in Escort Heart Institute, New Delhi has held that

"It is now settled law that right to health is an integral to right to life. Government has constitutional obligation to provide the health facilities. If the Govt. servant has suffered an ailment which requires treatment at a specialised approved Hospital and on reference whereat therein, it is but the duty of the State to bear the expenditure incurred by the Govt. servant. Expenditure, thus, incurred requires to be reimbursed by the State to the employee."

"Having had the constitutional obligation to bear the expenses for the Govt. while in service or after retirement from service, as per policy of the Govt., the Govt. is required to fulfill the constitutional obligation. Necessarily, the State has to bear the expenses incurred in that behalf."

and on that basis he made representation to the respondents for reimbursement of the balance amount and upon their rejection of that representation vide impugned letter dated 20.8.97, he has been compelled to file this OA.

3. Respondents in their reply challenge the OA. They point out that the Retired Employee Liberalised Health Scheme introduced by Circular dated 28.9.88 is open to all retired railway employees who were governed by Railway Medical Attendance & Treatment Rules who are willing to avail of its facilities and is contributory in nature. The Scheme specifically

provides that the beneficiary would be entitled to reimbursement of expenses incurred by him on medical treatment in other Govt. hospitals to the extent of 50% of admissible items only. They state that applicant submitted 3 bills on 17.8.94; 31.10.94; and 21.8.95 for Rs.47373/-; Rs.100358/- and Rs.3000/- respectively and as per 1988 Scheme, 50% of each bill was sanctioned and paid to him on 8.9.94; 19.12.94 and 17.11.95. They state that the OA is time barred as all of the applicant's claims were duly settled in 1994-95, while this OA was filed in October, 1997. They further state that the Hon'ble Supreme Court's judgment in Chawla's case (supra) is not relevant to the facts and circumstances of the present case.

4. Applicant has also filed rejoinder in which he has broadly reiterated the contents of the OA.

5. I have heard applicant's counsel Shri Shekhar and respondents' counsel Shri Agarwal.

6. Admittedly applicant was a member of the RELHS, 1988 which is contributory in nature. Para 5.1 of the Scheme explicitly restricts the reimbursement to 50% of admissible items. Applicant cannot deny that he was aware of the terms and conditions of the Scheme, when he contributed to it. Furthermore, he has not impugned respondents' Circular dated 28.9.88 itself by which the Scheme was introduced. As long as that circular stands, applicant cannot secure the benefit claimed. When this was pointed out to Shri Shekhar during hearing, he sought permission to amend the OA, but the prayer was

vigorously objected to by Shri Agarwal and the objection is sustained as the pleadings cannot be allowed to be amended during the stage of final hearing.

7. Clearly the OA is an afterthought and after his claims were finally settled in terms of the aforesaid RELHS Scheme in November, 1995 he has filed this OA in October, 1997 seeking to derive benefit from the Hon'ble Supreme Court's judgment dated 17.12.96 in Chawlas' case (supra) but apart from the facts in that case being distinguishable from the present one, the Hon'ble Supreme Court has laid down in Bhoop Singh Vs. UOI J.T. 1992 (3) SC 322 that the judgment of a court does not extend the period of limitation and applicant's cause of action arose after the last claim was settled in November, 1995. As per his own averments, he represented to respondents for the first time only in February, 1997, that is nearly 15 months after his cause of action arose.

8. Under the circumstance, it cannot be said that there is any illegality, irregularity, impropriety or infirmity in the impugned order dated 20.8.97 to warrant judicial interference. The OA is dismissed. No costs.

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(S.R. ADIGE)
VICE CHAIRMAN (A).

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