



CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH

O.A.N0.060/01348/2019 Order pronounced on:15.02.2021
 (Order reserved on: 08.02.2021)

HON'BLE MS. AJANTA DAYALAN, MEMBER (A)

Awtar Singh Rattan S/o Sh. Ujagar Singh, aged 81 years presently residing at H.No.2172, Sector 49-C, Chandigarh, Office Superintendent (Retired), (Group B, Non Gazetted), Office of Director M.P. GDC, Survey of India.

.... Applicant

(BY ADVOCATE: MR. R.C.SHARMA)

VERSUS

1. Union of India through Secretary to Government of India, Ministry of Science and Technology, New Delhi-110014.
2. The Surveyor General of India, Hathibarkala Estate, Dehradun, Uttrakhand-248001.
3. The Additional Surveyor General (NZ), Survey of India, Dakshin Marg, Sector 32-A, Chandigarh-160030.
4. Director, M.P. Geo Spatial Data Centre, Survey of India, Survey Colony, Vijay Nagar, Jabalpur-482002.

Respondents

(BY ADVOCATE: MR. VINOD K. ARYA)



ORDER
HON'BLE MS. AJANTA DAYALAN, MEMBER (A)

1. The present Original Application has been filed by the applicant Awtar Singh Rattan seeking quashing of the order dated 19.9.2018 (Annexure A-5) whereby his claim for medical reimbursement of Rs.2,83,000/- has been rejected. The applicant also seeks reimbursement of this amount.
2. The applicant retired as Office Superintendent on attaining the age of superannuation on 30.4.1996. He opted for fixed monthly allowance as there was no facility under Central Government Health Scheme (CGHS) either at Chandigarh or in District Moga, Punjab which is the place of his permanent residence. The applicant suffered heart attack on 29.12.2017 while staying with his son at Chandigarh. He was admitted in Mukat Hospital & Heart Institute, Chandigarh, an empanelled hospital of CGHS for Central Government employees. He underwent heart bypass surgery there and remained in the Hospital from 29.12.2017 to 10.1.2018. He spent a sum of Rs.2,83,000/-.

3. The applicant further states that he submitted an application dated 11.6.2018 (Annexure A-2) for reimbursement of the medical bill. It was returned vide letter dated 21.6.2018 (Annexure A-3) with direction to submit it to CGHS authorities. The applicant submitted a representation dated 16.7.2018 (Annexure A-4) that he is not member of CGHS and as such, reimbursement may be made by



respondents. However, his claim was rejected vide order dated 19.9.2018 (Annexure A-5) on the ground that there is no provision under which reimbursement can be made to a retired employee, without enrolment as a member of CGHS.

4. The case of the applicant in short is that once he has taken the treatment from a CGHS empanelled hospital, he is entitled to medical reimbursement in view of various judicial pronouncements even if he was not a member of CGHS. During the hearing, the learned counsel for the applicant submitted that subsequent to indicated treatment, the applicant has become a member of CGHS.

5. The respondents have contested the claim of the applicant. They have stated that it is only later in 2019 that the applicant has discontinued the Fixed Medical Allowance. They submit that firstly, as per Rules, the medical claim of retired personnel cannot be reimbursed by the office from where applicant has retired. Secondly, for taking reimbursement from CGHS a retiree has to approach CGHS by depositing a lump-sum amount for issuance of CGHS Card and only thereafter he can avail facilities including hospitalization from the date of enrolment

6. The respondents have finally concluded that in view of all above, the O.A. has no merit and the applicant does not deserve the relief sought in the O.A.

7. I have heard the learned counsel of opposing sides and have carefully gone through the pleadings on record. I



have also given my thoughtful consideration to the entire matter.

8. The facts of the case are not in dispute. It is matter of record that the applicant was not a member of the CGHS when he took treatment from Mukat Hospital & Heart Institute, Chandigarh during 29.12.2017 to 10.1.2018. It is only later in 2019 that he stopped receiving Fixed Medical Allowance and became a member of the CGHS.

9. The respondents also have very specifically pleaded that as per rules they are not to reimburse the medical claim of a retiree and such claims have to be reimbursed by the CGHS. It is also expected that the applicant who retired as Office Superintendent is supposed to know the Rules and Regulations relating to reimbursement of the medical claim. However, the applicant has not made CGHS a party in this case. Thus, O.A. is not maintainable for want of impleadment of a necessary and proper party.

10. It is also observed that as per Instructions dated 19.12.1997 (Annexure R-1) of Ministry of Personnel, Public Grievances and Pensions (Department of Pension and Pensioners Welfare), New Delhi, a retiree has options - he can choose Fixed Medical Allowance of Rs.1000/- or he can opt to avail full facilities of CGHS Dispensary. However, the applicant continued to avail Fixed Medical Allowance even after taking the indoor treatment in private hospital.



11. Further, it is seen that as per Government of India Rules, retired employees have to apply for CGHS facilities directly following the proper procedure. But admittedly in this case, the applicant did not adopt this procedure prior to taking treatment in private Hospital. It is only later that the applicant chose to become a member of CGHS and his case for change of option was forwarded to the concerned authorities for necessary action.

12. On similar issue the Hon'ble Delhi High Court in the case of **DAL CHAND VASHISHT V. GOVERNMENT OF NCT OF DELHI AND OTHERS**, 2008 VI AD (Delhi) 44, has held that "To be able to obtain the benefit of a scheme, it is essential that the person/claimant is a member of the said scheme. If the membership is automatic, i.e., it comes with the status of the person, the person would be entitled to the benefits thereof, unless he expressly, or by his conduct evinces his intentions not to participate in the scheme - e.g. where he does not pay the subscription due from him. However, where has an option, - whether or not to subscribe to the scheme and the scheme is contributory and voluntary in character, he cannot claim any benefits under the scheme unless he exercises his option to get covered by the scheme and also takes the necessary steps by paying the subscription therefor". In the decisions relied upon by the applicant, this specific point has not been discussed or dealt with in detail and only general principles laid down therein relating to medical treatment have been discussed/decided. Thus, the applicant cannot derive any benefit from those decisions.



13. Besides, the applicant has also filed an M.A.No.060/2078/2019 for condonation of delay of 94 days in filing the O.A. The reasons mentioned by the applicant do not inspire any confidence at all. Therefore, M.A. is dismissed.

14. In view of the above, I find that applicant does not deserve the relief sought for by him in the O.A. O.A. is, therefore, dismissed being devoid of merits as well as being barred by time.

15. There shall be no order as to costs.

**(AJANTA DAYALAN)
MEMBER (A)**

Place: Chandigarh
Dated: 15.02.2021

HC*