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32 of 1986

**DATE OF DECISION** 3rd April, 1986

Shri B.C. Baurai

Petitioner in person Advocate for the Petitioner(s)

## Versus

| Union of India | Respondent |
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**Shri K.C. Mittal** **Advocate for the Respondent(s)**

**CORAM :**

**The Hon'ble Mr. S.P. MUKERJI, Member**

**The Hon'ble Mr. H.P.BAGCHI, Judicial Member**

1. Whether Reporters of local papers may be allowed to see the Judgement ? *Yes*
2. To be referred to the Reporter or not ? *Yes*
3. Whether their Lordships wish to see the fair copy of the Judgement ? *No*

JUDGMENT:

The Petitioner has come up with this application under Section 19 of the Administrative Tribunals Act seeking that his 38 Medical T.A. Claims for Rs.999.60 with interest may be paid to him. While he was posted in the office of I.A.O.(Air Force) Bareilly and living in Government

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accommodation, there was no authorised medical Attendant within 8 Kms and as per Rules he was entitled to claim Travelling Allowance for himself and his family. His claims were not admitted as he did not produce some certificates as required by the Respondents.

2. We have heard the Petitioner and learned counsel for the respondents. The short question is whether the medical TA claims of the petitioner to the tune of Rs.999.60 for a period of 4 years from 1977 to 1980 should be admitted for a family of about 7 members. Without going into the detailed computation and admissibility of individual claims, we will take up the basic objection on which the TA claims are being disallowed. In accordance with Rule 4 of the Central Services Rules (Medical Attendance) (hereinafter denoted as Rules) TA is permitted when the place at which the patient falls ill is more than five miles (8 KM) by the shortest route from the consulting room of the Authorised Medical Attendant (AMA). This fact has not been denied by the respondents. Sub-rule 2 of Rule 4 reads as follows:

"Application for travelling allowance under sub-rule (1) shall be accompanied by a certificate in writing by the Authorised Medical Attendant stating that medical attendance was necessary and if the application is under clause (b) of that sub-rule that the patient was too ill to travel".

The certificate contemplated under sub-rule (2) above has been produced by the petitioner. However

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the respondent's case is that this certificate is not enough as in accordance with sub-para (b) of para 5 of Appendix XV to the Rules for entitled travelling allowance for medical attendance/or treatment the AMA has to certify that the journey was unavoidably necessary to obtain appropriate medical attendance and treatment under the Medical Attendance Rules and Orders. The petitioner indicates his inability to obtain such a certificate as he had already obtained the necessary certificates required under Rule 4 of the Rules that the medical attendance was necessary and that according to him the Medical Attendant may not agree to give a certificate about the unavoidability of the journey, as such at such a distance of time. We see considerable force in the difficulty projected by the petitioner especially now when the Medical Attendant who treated him may not be there where he gave the treatment. We would, therefore, direct that the certificate if it meets the requirement of Rule 4 of the Central Service (Medical Attendance) Rules should be enough for admitting the claims of the petitioner.

3. The petitioner has further prayed that his minor children when they fell ill had to be taken to the Medical Attendant at a distance of more than 8 Kms with an escort. In accordance with the respondents the TA claim for the escort again will be governed by the said Appendix XV mentioned


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above and para 8 thereof. This para again prescribes the requirement of a certificate in writing to be given by the medical authorities that "it is unsafe for the patient to travel unattended and that an attendant/escort is necessary to accompany him/her to the place of treatment". We feel that for the treatment of minor children such a certificate for the escort should not be insisted upon for admissibility of TA for not more than one escort attending the minor children. For the reasons indicated in para 2 above we feel that it will be difficult for the petitioner to obtain at this stage a certificate from the concerned Medical Attendant to the effect that it was unsafe for the children to travel unattended and that an attendant/escort was necessary to accompany him or her to the place of treatment. We feel that a special provision for the treatment of minor children should be made clarifying that such a certificate under para 8 of the Appendix XV of the Rules may not be insisted upon. Accordingly we direct that the petitioner at this stage should not be required to produce such certificate, and if the TA claims for the single escort with the ailing minor children are otherwise admissible <sup>the same</sup> ~~for the~~ should be allowed.

4. This is how we would interpret the aforesaid Rules to further the broad interests of justice, based on reason and common sense.

In effect, we allow the petition and direct that subject to the proper verification of the claims and satisfaction of other requirements, the claims as permissible otherwise, should be accepted on the basis of the certificate produced by the petitioner from the AMA under Rule 4 for the adult members and without any certificate under para 8 of the Appendix XV for a single escort with the ailing minor children. There will be no order as to costs. We further direct that the TA claims should be disposed within the next two months.

  
(H.P. BAGCHI)  
JUDICIAL MEMBER  
3.4.1986

  
(S.P. MUKERJI)  
MEMBER  
3.4.1986