

Open Court.

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH : ALLAHABAD.

Original Application No.673 of 2001.

Allahabad this the 23rd day of July 2004.

Hon'ble Mrs. Meera Chhibber, Member-J.

Smt. Maheshwari Devi
wife of late Sri Padhi Ram,
Resident of 79-K/2A, Sarvodaya Nagar,
Allahpur, Allahabad.

.....Applicant.

(By Advocate : Sri G.C. Gahrana/
Sri J.L. Dubey)

Versus.

1. Union of India
through Secretary,
Ministry of Health and Family Welfare,
Department, New Delhi.
2. Director General, Directorate General of
Health Services (CGHS DESK-I),
Nirman Bhawan, New Delhi.
3. Additional Dy. Director General (H.Q)
Nirman Bhawan, New Delhi.
4. Joint Director, C.G.H.S. Sangam Palace,
Civil Lines-2, Clive Road, Allahabad-211001.
5. Additional Director C.G.H.S Sangam Palace,
Civil Lines-2, Clive Road, Allahabad-211001.
6. Administrative Officer, C.G.H.S., Allahabad.

.....Respondents.

(By Advocate : Sri Rajiv Sharma)

O R D E R

(By Hon'ble Mrs. Meera Chhibber, J.M.)

By this O.A. applicant has sought the following
relief(s):

- "(i) That order dated 27.02.2001 containing order
dated 05.02.2001 rejecting the claim of refund
of medical expenses incurred in connection
with medical attendance and treatment of Sri
Padhi Ram employee of C.G.H.S. kindly be quashed.
- (ii) Respondent No.5 and 6 be directed to refund
the medical expenses Rs.35,507.83 and



Rs.15,024/- and Rs.16,927/- dated 03.06.1998 incurred in connection with medical attendance and treatment of late Sri Padhi Ram beneficiary of C.G.H.S. Allahabad alongwith interests with actual payment.

(iii) That Tribunal may pass such other and further order as may be deemed fit and proper in the circumstances of the case.

(iv) award the cost of the application".

2. It is submitted by applicant that her husband was suffering from Non Insulin Dependant Diabeties with renal failure as such permission was given by Addl. Director C.G.H.S. to receive treatment from S.G.P.G.I. on 29.1.97. He was treated and his medical bills were also reimbursed.

3. He retired on 30.04.1997 on attaining the age of superannuation and his C.G.H.S. Card was renewed from time to time. Last renewal was done from 09.10.1997 to 30.06.1998. It is stated by applicant that she gave an application for renewal on 28.6.98 (pg.18) but the payment could not be made unless application was allowed by the officer concerned. In the meantime her husband suffered another ~~heart~~ attack on 22.08.98, therefore, he had to be admitted in Sanjay Gandhi Post Graduate Institute. He remained in Hospital till 09.09.1998 when he died.

4. After his death, they submitted bills for medical reimbursement but they were informed vide letter dated 28.12.1981 that the amount cannot be paid as C.G.H.S. Card was not valid. (Pg.15).

5. In the letter dated 5.2.2001 written by Addl. Dy. Director General (H.Q) it was stated that treatment was taken by applicant after ^{expiry of} ~~entry~~ of validity period of the C.G.H.S. Card, there appears no fresh ground for consideration of the case for reimbursement of medical expense in relaxation of rules. As such request of



Smt. Maheshwari Devi Wife of late Shri Padhi Ram cannot be acceded to.

6. Respondents have opposed this O.A., they have explained that the pensioner Cards are issued by Additional Director of the concerned C.G.H.S. City and the contribution is charged on the basis of last pay drawn or pension, which is an option for the pensioners. They have explained that the petitioner can opt for making one time payment towards C.G.H.S. Contribution on payment of subscription for ten years and permanent whole life C.G.H.S. card is issued to them. They have further explained that the petitioners can make payment of contribution for a block period of 6 months counting from 1st January to 30th June and from 1st July to 31st December, or from the month in which they start availing benefits of C.G.H.S. on proportionate basis, once the C.G.H.S. pensioner card is issued to the pensioner, its further renewal is made by C.G.H.S. within a grace period of one month only. They have further explained that it has been notified by the Govt. of India, Ministry of Health and Family Welfare vide their letter dated 18.12.1996 (Copy enclosed) as Annexure CA-1 "that the renewal of the C.G.H.S. Card of pensioners should be done from the date of payment of subscriptions by them and not with retrospective effect, if the card is not got revalidated within the grace period of one month". It has been categorically stated in the above mentioned order "that the pensioners will not be eligible for the reimbursement for the period for which the C.G.H.S card has not been renewed.

7. In the instant case all the claims of applicant upto 30.06.1998 have already been paid. However, the



card was not renewed after 30.06.1998 within one month grace period, therefore, applicant is not entitled for reimbursement after 30.06.1998. They have denied categorically by stating ^{that} no application dated 28.6.1998 is on record for renewal of C.G.H.S Card. Infact applicant had herself stated in her application dated 14.12.1999 that she could not get the C.G.H.S. Card renewed due to tension arising out of her husband's illness (C.A II). They have further submitted that since applicant's husband received treatment after the grace period of one month, therefore, she is not entitled for any reimbursement, therefore, O.A. may be dismissed.

8. I have heard both the counsel and perused the pleadings as well.

9. The controversy raised by the counsel was that validity period for renewal of CGHS Card was 3 months as per the O.M. dated 28. 10.1988 whereas respondents case is that validity period was only one month. Perusal of Annexure RA-I shows that as per O.M. dated 28.10.1988 issued by Ministry of Health and Family Welfare the grace period for renewal of card in case of pensioner was 3 months from the date of expiry of the Card. It is specifically mentioned therein that if CGHS Card is renewed after the expiry of 3 months, pensioner will not be entitled for any reimbursement for that period of treatment, which happens to fall between the actual date of renewal of card and the date which the card would be renewed. It is further clarified in the said O.M. that the grace period of 3 months has been given for the reasons that there might have been some cases where pensioners are not able to get their CGHS Card renewed in time for certain unavoidable reasons like old age or on being out of station etc. There is a valid reasons and logic behind granting this grace period to the pensioner



for getting the CGHS Card renewed, within 3 months whereas respondents have relied on letter dated 13.01.1996 issued by Under Secretary to the Government of India and addressed to the Director, CGHS, Nirman Bhawan, New Delhi wherein the grace period has been reduced to one month but this letter nowhere states that this is in supersession ^{of} O.M. dated 28.10.1988 nor there is ~~any~~ reference to the O.M. dated 28.10.1988. On the contrary this seems to be an internal letter issued to the Director CGHS, Nirman Bhawan and other officers of the CGHS. Counsel for the respondents was not able to inform us whether this letter had been given wide circulation or not and whether it was published in the Gazzate Note. After all, if a policy decision is to be taken by the Government to the detriment of the Government servant or the pensioners, they are at least ~~expected to~~ ^{expected to} publish the said policy by way of O.M. so that the pensioners are made aware of the changed policy. Since we have not been informed about the status of this letter written by Under Secretary to the Government of India to the Director, it is not understood as to how the period of grace, which was given by earlier O.M. dated 28.10.1988 within 3 months has been reduced to be one month. In the absence of any plausible justification given by the respondents counsel, I am not able to accept the contention of respondents that the grace period was only one month. The O.M. dated 28.10.1988 very rightly states that if the card is not renewed within the grace period and has ^{been &} ~~got~~ renewed, subsequently, the employee would not be able to get the reimbursement for the said period. Meaning thereby, ^{that} there was no denial of reimbursement if anything ~~id~~ happened to ~~be~~ a pensioner during the grace period.

10. In the instant case applicant's CGHS Card was admittedly extended up to 30.06.1998 and he died on 09.09.1998 i.e. within 3 months of the grace period. It is submitted by the applicant




that she gave an application for renewal before 30.06.1998 but the same is denied by the respondents in their counter affidavit. The question here is if applicant's husband had again fallen sick on 22.08.1998 for which, he had to be hospitalised and he died also within the grace period of 3 months, can in such circumstances, the widow of pensioner be denied reimbursement. Since O.M. dated 28.10.1988 does not bar such cases from getting the reimbursement, should the case ~~for~~^{of} applicant be not^{re} considered.

11. In the instant case, admittedly pensioner Card was renewed up to 30.06.1998 and within the period of 3 months he had suffered another attack for which he had to be hospitalised and he died also within that period of 3 months. It is, thus, clear that the pensioner died within the grace period of 3 months. It goes without saying that if the husband was so sick that he had to be hospitalised naturally the wife or the children would have been busy with the pensioner in taking care of him and could not have approached the authorities for renewal of their card. According to me such a situation would be covered ~~in~~^{under} unavoidable circumstances as stipulated in the O.M. dated 28.10.1988. I am, therefore, of the opinion, that in these circumstances even if the CGHS Card was not renewed due to unavoidable circumstances, though, the pensioner was willing to get it renewed, he should be given the benefit of grace period as stipulated in the O.M. dated 28.10.1988.

12. In view of the above discussion, the reply given by the respondents to the applicant is quashed and set aside. The matter is remitted back to the authorities to reconsider the same in view of the observations made above and then to pass a reasoned and speaking order under intimation to the applicant within a period of 3 months from the date of receipt of a copy of this order.

13. With the above directions, this O.A. is disposed off with no order as to costs.


Member (J)