



**CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH, BANGALORE**

ORIGINAL APPLICATION NO.170/01631/2019

ORDER RESERVED ON 04.08.2021

DATE OF ORDER: 04.10.2021

CORAM:

HON'BLE SHRI SURESH KUMAR MONGA, MEMBER (J)

(On video conference from Central Administrative Tribunal, Chandigarh Bench, Chandigarh)

HON'BLE SHRI RAKESH KUMAR GUPTA, MEMBER (A)

(On video conference from Central Administrative Tribunal, Bangalore Bench, Bangalore)

G.S.Lakshminarashimaiah

Aged about 77 years

Retired Mail Overseer (Postman)

K.R.Nagar Sub-Division

K.R.Nagar P.O.571 602.

Residing at:

C/o. S.N.Anand

Sirvi Epition Apartment

Flat No.102, Ground Floor

6th Cross, Gummaiah Layout

Chikkallasandra

Bengaluru-560 061.

....Applicant

(By Advocate Shri P.Kamalesan – through video conference)

Vs.

1. Union of India
Rep. by its Secretary
Department of Post
Dak Bhavan
New Delhi – 110 001.
2. Chief Post Master General
Karnataka Circle
Bengaluru-560 001.
3. Post Master General, HQ
Bengaluru Region
Bengaluru-560 001.



4. Senior Supt. of Post Offices
Mysore Division
Mysore-570 001.

.....Respondents

(By Advocate Shri V.N.Holla – through video conference)

ORDER

PER: RAKESH KUMAR GUPTA, MEMBER (A)

1. The applicant has filed the present Original Application under Section 19 of the Administrative Tribunals Act, 1985 seeking the following relief:

- i. Quash the Post Master General, Bengaluru Region, Bengaluru Letter No.BGR/AP/13-BGE/6/2018-19 dtd:16.8.2019-Annexure-A6.
- ii. Direct the respondents to reconsider the claim for reimbursement of medical bills submitted by the applicant for Rs.1,72,107/-.

2. The facts of the case as pleaded by the applicant are as follows:

- a) The applicant was working as Mail Overseer (Postman) at K.R.Nagar Sub-Division under Mysore Postal Division.
- b) The applicant voluntarily retired from service with effect from 1.7.1996 A/N. After retirement, the applicant resides at Bangalore along with his son.
- c) The applicant applied for CGHS card during January 2019 and CGHS card was issued to him for the period from 28.01.2019 to 31.12.2019. Before 28.01.2019, the applicant's claims for medical treatments were under the provisions of CS (MA) Rules 1944.
- d) The applicant's wife Mrs.Prabhavathi was admitted on 24.12.2018 at Sagar Hospitals at Bangalore which is recognized by CGHS/State Govt.



on emergency basis for heart related treatment and discharged on 28.12.2018. The hospital issued a medical bill for treatment for Rs.1,72,107/-.

- e) The Sagar Hospitals, Bangalore certified that Mrs.Prabhavathi, 67 years, was admitted on emergency basis vide letter dated 28.2.2019 (Annexure-A4).
- f) The applicant submitted the medical bill with a request dtd.7.3.2019 to Sr.Supt. of Post Offices, Mysore Division for reimbursement (Annexure-A5).
- g) The Post Master General, Bengaluru Region, Bengaluru vide letter No.BGR/AP/13-BGE/6/2018-19 dated 16.8.2019 returned the medical bills on the plea that settlement of ROMC cases of pensioners is not applicable under CS(MA) Rules 1944 (Annexure-A6).
- h) The applicant submits that the Govt. of India issued OM vide GI MA OM No.Z-28013/8/98-MS dtd.26.5.2000 wherein it was stipulated based on Chandigarh Bench of this Tribunal's order dtd.28.6.1999 in case of Shri. Dhrampal in OA No.763/CH of 1998, stating that 'the employees of Central Govt. who are similarly placed and have been extended the benefit of CS(MA) Rules 1944, are made eligible for reimbursement of medical expenditure with a condition that Central Govt. employees will not lay claim for medical claim/facilities admissible to their spouse, if such spouse(s) is/are in receipt of some fixed medical allowance (Annexure-A7).



- i) The applicant submits that this Tribunal vide order dtd: 5.8.2014 in OA.No.1565/2013 allowed the medical reimbursement of retired employee.
- j) This Tribunal in a detailed order dated 12.3.2014 in OA.No.469/2013 also allowed the claim for reimbursement of medical bills of a retired Govt. servant.
- k) The Hon'ble High Court of Karnataka at Bengaluru vide order dtd.13.8.2012 in WP.No.18210/2005, 18211/2005 and 20158/2004 (S-CAT) held that retired employees are eligible for medical reimbursement.
- l) Therefore, the rejection of reimbursement on the plea that 'settlement of ROMC cases of pensioners is not applicable under CS (MA) Rules 1944' is against Govt. of India OM and also in violation of judicial orders.

3. The respondents in their reply statement have averred as follows:

- a) The medical claim of the applicant was received and examined at A & P Section of O/o Postmaster General, Bengaluru HQ Region. It was observed that as the applicant had retired from service, he was directed vide letter No.BGR/AP/B-BGE/6/2018-19 dated 16.08.2019(Annexure-R3) to submit his ROMC bill to CGHS Authorities who are authorised to process the ROMC bills of the pensioners as per Department of Health and Family welfare OM No.Z.15025/38/2018/DIR/VCGHS dated 14.05.2018 (Annexure-R4) and as they are not covered under Central



Service (Medical Attendance) Rules, 1944 vide Rule 1(2) Note 2(iv) (Annexure-R5).

- b) As per Rule No. 1(2) Note 2(iv), CS (MA) Rules 1944 do not apply to Retired Government Officials. Hence, the retired official was informed to approach concerned CGHS authorities for processing of claim. Pensioner CGHS beneficiaries shall submit the medical claims to the CMO I/c of the CGHS Wellness centre, where the CGHS card is enrolled vide Department of Health and Family Welfare OM No.Z.15025/38/2018/DIR/VCGHS dated 14.05.2018. There is no mention about rejection of claim, which was misinterpreted and stated by the applicant in the OA.
- c) Accordingly. The applicant was informed to approach concerned CGHS authorities vide letter No.BGR/AP/B-BGE/6/2018-19 dated 16.08.2019 and there is no mention about rejection of claim, which is misinterpreted by the applicant. The claim of the official was returned with a guidance to approach CGHS authorities for settlement (Annexure-R4).

4. The applicant filed rejoinder wherein he averred as follows:

- a. The applicant submits that he become a CGHS subscriber from 28.1.2019 whereas the reimbursement was for the period of treatment from 24.12.2018 to 28.12.2018. Therefore, he was not eligible for reimbursement under CGHS scheme which was admitted vide para 5 (a) in reply.
- b. The applicant submits that though pensioners were not eligible for reimbursement, the Government of India, Ministry of Health vide OM



No.Z/28013/8/98 MS dated: 26.6.2000, issued orders for reimbursement under CS(MA) Rules.

- c. This Tribunal vide order dated 5.8.2014, in OA.No.1565/2013 and in OA.No.469/2013 vide order dated 12.3.2014 and Hon'ble High Court of Karnataka in WP.No.18210/2005 c/w 18211/2005 and 20158/2004, S-CAT vide order dated 13.8.2012(Annexure-A10) declared that pensioners covered under CSMA Rules were eligible for medical reimbursement.
- d. Therefore, the applicant is a similarly placed pensioner and he is eligible for the benefit granted to other pensioners. Therefore, it is prayed that the OA may be allowed in the interest of justice and equity.

5. The respondents have filed additional reply statement where they averred as follows:

- a. The claim of the applicant (i.e., pensioner) was not rejected. As the settlement of the bill was not in the purview of the respondents as per Central Services (Medical Attendance) Rules, 1944, the applicant was advised to approach CGHS authorities. However, the applicant instead of approaching the CGHS authorities, filed the OA before this Tribunal contending that his claim was rejected by the respondents.
- b. As per Department of Health and Family Welfare OM No.S.14025/23/2013-MS.EHSS dated 29.09.2016 (Annexure-R1), pensioners are not covered under CS(MA) Rules, 1944. Moreover, the options available for the pensioners to avail the medical facilities are clearly mentioned in the said Office Memorandum. The pensioners are



eligible for medical facilities subject to the conditions as mentioned in the said OM. The said instructions are reproduced as below:

“... 2(a) Pensioners residing in CGHS covered areas

- i. They can get themselves registered in CGHS dispensary after making requisite contribution and can avail both OPD and IPD facilities.
- ii. Pensioners residing in a CGHS area cannot opt out of CGHS and avail any other medical facility (i.e. Fixed Medical Allowance). Such pensioners, if they do not choose to avail CGHS facility by depositing the required contributions cannot be granted Fixed Medical Allowance in lieu of CGHS.

2(b) Pensioners residing in non-CGHS areas.

- i. They can avail Fixed Medical Allowance (FMA) @ Rs.500/- per month (Later revised to Rs.1000/- per month vide DoP&PW OM No:4/34/2017-P&PW(D) dated 19.07.2017 – (Copy enclosed).
- ii. They can avail the benefits of CGHS (OPD and IPD) by registering themselves in the nearest CGHS city after making the required subscription.
- iii. They also have the option to avail FMA, for OPD treatment and CGHS for IPD treatments after making the required subscriptions as per CGHS guidelines...”

c. Further, in the instant case, the applicant has become a CGHS subscriber w.e.f. 28.01.2019 even though retired voluntarily on 01.07.1996. The admissibility of the bill will be subject to scrutiny by the CGHS authorities.

d. The Central Services (Medical Attendance) Rules, 1944 are not applicable to pensioners. Further, the pensioners are eligible for medical facilities as per the provisions mentioned in the OM No.S.14025/23/2013-MS.EHSS dated 29.09.2016 issued by the



Department of Health and Family Welfare (Ministry of Health and Family Welfare). The pensioners themselves have to opt depending on the area of residence and can avail the medical facilities. Further, the orders of this Tribunal or Courts in any case will be in personam and not in rem.

- e. In the instant case, CGHS authorities are competent to settle the claim of the applicant as per prevailing rules on the subject.
6. Heard learned counsels for the parties.
7. The applicant has contended that his case is covered under CS (MA) Rules, 1944. He retired in 1996 and his claim pertains to a period when he was a pensioner.
8. He has relied upon the clarification issued by GOI vide OM No.Z.28013/8/98-MS dated 26.05.2000 wherein it has been stated that the employees of the Central Government who are similarly placed and have been extended the benefits of CS(MA) Rules, 1944, are made eligible for reimbursement of medical expenditure with a condition that the Central Government employees will not lay claim for medical claims/facilities admissible to their spouses, if such spouse(s) is/are in receipt of some/fixed medical allowance(Annexure-A7). However, a careful reading of this OM clearly indicates that this OM is applicable only to Central Government employees and is not applicable to pensioners.
9. The Court cases referred to by the applicant, in support of his claim, mainly pertain to situations where the pensioner was residing in a non-CGHS area.



10. In OA.No.1565/2013, referred to by the applicant, this Tribunal, vide orders dated 05.08.2014, had considered a case where the applicant was a retired Postal Assistant who was residing in non-CGHS area. In its order, the Tribunal had observed that the case was covered by its order in OA.No.852/2013 which was disposed of with the following directions:

When the application came up for hearing, the learned counsel for the applicant submits that this OA is covered by the orders of this Tribunal in OA No.852/2013. That OA was disposed of with the following direction:

“5. In the present case the applicant is pensioner and he is staying other than CGHS area, he is not covered under CGHS for grant of medical reimbursement. Accordingly the judgment of Honble High Court of Karnataka and O.M. at Annexure.A.4 dated 5.6.1998 issued by the Ministry of Health and Family Welfare regarding claim of medical reimbursement under CS(MA) Rules for those residing in non-CGHS area are applicable.

6. The respondents have no justified while rejecting the request of the applicant. Accordingly, impugned order is quashed. The respondents are directed to consider the claim of the applicant for reimbursement of medical expenses in pursuance of his representation dated 17.7.2013 applying the OM dated 5.6.1998 at Annexure.A4 within a period of three months from the date of receipt of copy of this order.”

In view of the aforesaid order in OA 852/2013, the applicant is directed to submit his medical claim in respect of medical bill dated 5.10.2013 before the respondents within a period of 15 days from the date of receipt of copy of this order. The respondents are directed to consider the claim of the applicant and sanction the medical claim within a period of one month from the date of receipt of the medical claim from the applicant.



11.The other cases referred to by the applicant in OA.No.469/2013 dated 12.03.2014 as well as in WP.Nos.18210/2005 & batch dated 13.08.2012 of the Hon'ble High Court of Karnataka, the Court has ruled that the retired employees of the Union of India are also entitled for reimbursement of medical charges.

12.The Hon'ble Apex Court in the case of *Shiva Kant Jha Vs. Union Of India*, Writ Petition (Civil) No. 694 of 2015 decided on 13.4.2018, has specifically ruled as under for pensioners:

"13) It is a settled legal position that the Government employee during his life time or after his retirement is entitled to get the benefit of the medical facilities and no fetters can be placed on his rights. It is acceptable to common sense, that ultimate decision as to how a patient should be treated vests only with the Doctor, who is well versed and expert both on academic qualification and experience gained. Very little scope is left to the patient or his relative to decide as to the manner in which the ailment should be treated. Speciality Hospitals are established for treatment of specified ailments and services of Doctors specialized in a discipline are availed by patients only to ensure proper, required and safe treatment. Can it be said that taking treatment in Speciality Hospital by itself would deprive a person to claim reimbursement solely on the ground that the said Hospital is not included in the Government Order. The right to medical claim cannot be denied merely because the name of the hospital is not included in the Government Order. The real test must be the factum of treatment. Before any medical claim is honoured, the authorities are bound to ensure as to whether the claimant had actually taken treatment and the factum of treatment is supported by records duly certified by Doctors/Hospitals concerned. Once, it is established, the claim cannot be denied on technical grounds. Clearly, in the present case, by taking a very inhuman approach, the officials of the CGHS have denied the grant of medical reimbursement in full to the petitioner forcing him to approach this Court.

14) This is hardly a satisfactory state of affairs. The relevant authorities are required to be more responsive and cannot in a mechanical manner deprive an employee of his legitimate reimbursement. The Central Government Health Scheme (CGHS) was propounded with a purpose of providing health facility scheme to the central government employees so that they are not left without medical care after retirement. It was in furtherance of the object of a welfare State, which must provide for such medical care that the scheme was brought in force. In the facts of the present case, it cannot be denied that the writ petitioner was admitted in



the above said hospitals in emergency conditions. Moreover, the law does not require that prior permission has to be taken in such situation where the survival of the person is the prime consideration. The doctors did his operation and had implanted CRT-D device and have done so as one essential and timely. Though it is the claim of the respondent-State that the rates were exorbitant whereas the rates charged for such facility shall be only at the CGHS rates and that too after following a proper procedure given in the Circulars issued on time to time by the concerned Ministry, it also cannot be denied that the petitioner was taken to hospital under emergency conditions for survival of his life which requirement was above the sanctions and treatment in empanelled hospitals.

15) In the present view of the matter, we are of the considered opinion that the CGHS is responsible for taking care of healthcare needs and well being of the central government employees and pensioners. In the facts and circumstances of the case, we are of opinion that the treatment of the petitioner in non-empanelled hospital was genuine because there was no option left with him at the relevant time. We, therefore, direct the respondent-State to pay the balance amount of Rs. 4,99,555/- to the writ petitioner. We also make it clear that the said decision is confined to this case only.

16) Further, with regard to the slow and tardy pace of disposal of MRC by the CGHS in case of pensioner beneficiaries and the unnecessary harassment meted out to pensioners who are senior citizens, affecting them mentally, physically and financially, we are of the opinion that all such claims shall be attended by a Secretary level High Powered Committee in the concerned Ministry which shall meet every month for quick disposal of such cases. We, hereby, direct the concerned Ministry to device a Committee for grievance redressal of the retired pensioners consisting of Special Directorate General, Directorate General, 2 (two) Additional Directors and 1 (one) Specialist in the field which shall ensure timely and hassle free disposal of the claims within a period of 7 (seven) days. We further direct the concerned Ministry to take steps to form the Committee as expeditiously as possible. Further, the above exercise would be futile if the delay occasioned at the very initial stage, i.e., after submitting the relevant claim papers to the CMO-I/C, therefore, we are of the opinion that there shall be a timeframe for finalization and disbursement of the claim amounts of pensioners. In this view, we are of the opinion that after submitting the relevant papers for claim by a pensioner, the same shall be reimbursed within a period of 1 (one) month.

17) In view of the foregoing discussion, we dispose of the petition filed by the writ petitioner with the above terms."

13.Hence, keeping in view the directions/observations made by the Apex Court, there is no doubt that the applicant would be entitled to relief pertaining to his medical claim for reimbursement of charges incurred by him on



treatment of his spouse. The only question is whether this claim should be entertained by the Dept. of Posts under CS (MA) Rules or by the Ministry of Health & Family Welfare under the CGHS Scheme.

14. In this particular case, the pensioner has been residing in a CGHS area i.e. Bangalore. As per the clarifications issued by the Ministry of Health and Family Welfare vide their OM dated 29.09.2016, for the pensioners, the following provisions have been prescribed by the Ministry of Health and Family Welfare:

OM No: 14025/23/2013-MS.EHSS, dated 29th September 2016, issued by Ministry of Health and Family Welfare,

Sub:- Reimbursement of medical claims to pensioners under CS (MA) Rules, 1944 as directed by various CATS/Courts – Regarding.

The undersigned is directed to state that various references are being received in Ministry of Health and Family Welfare on the above mentioned subject. It is hereby clarified that CS (MA) Rules, 1944 are not applicable to pensioners till date.

2. It is further informed that the following options to avail medical facilities are available to Central Government pensioners:

a) Pensioners residing in CGHS covered areas:

- 1. They can get themselves registered in CGHS dispensary after making requisite contribution and can avail both OPD and IPD facilities.*
- 2. Pensioners residing in CGHS areas cannot opt out of CGHS and avail any other medical facility (i.e. Fixed Medical Allowance). Such pensioners, if they do not choose to avail CGHS facility by depositing the required contributions, cannot be granted Fixed Medical allowance in lieu of CGHS.*

b) Pensioners residing in non -CGHS areas:



1. *They can avail Fixed Medical Allowance (FMA) @ Rs.500/- per month.*
2. *They can also avail benefits of CGHS- (OPD and IPD) by registering themselves in the nearest CGHS city after making the required subscription.*
3. *They also have the option to avail FMA, for OPD treatment and CGHS for IPD treatments after making the required subscriptions as per CGHS guidelines.*
3. *In view, of the above, reimbursement of medical claims to pensioners under CS (MA) Rules, 1944 as directed by various CATs/Courts, need not be referred to the Ministry of Health and Family Welfare. The respective Administrative Department/Ministry may take their own decision in this regard.*
4. *Further, all Departments/Ministries are requested to intimate their employees proceeding for retirement regarding the above options for medical facilities available to the Central Government pensioners.*
5. *This issues with the approval of competent authority.*

15.The above provisions for pensioners residing in CGHS covered areas, clearly stipulate that such pensioners are entitled to get themselves registered in CGHS after making requisite contribution and can avail both OPD and IPD facilities. Moreover, such pensioners cannot opt out of CGHS and avail any other medical facility (i.e. Fixed Medical Allowance). Such pensioners, if they do not choose to avail CGHS facility by depositing the required contributions, cannot be granted Fixed Medical Allowance in lieu of CGHS. It has been further clarified in this OM, that the CS (MA) Rules, 1944 are not applicable to pensioners till date.

16.A careful reading of this OM dated 29.09.2016 clearly indicates that all pensioners residing in CGHS areas are required to get registered in CGHS and are also not eligible for any Fixed Medical Allowance.



17. In this particular case, the facts, as pleaded by the applicant, reveal that he had retired in 1996 and has been receiving a Fixed Medical Allowance from that date. He registered himself for CGHS on 28.01.2019 only. The period of treatment for which the medical bill has been submitted for reimbursement is from 24.12.2018 till 28.12.2018 i.e. before the date of his registration in CGHS. An apprehension has been expressed by the applicant that since he has got himself/his spouse registered under CGHS, subsequent to the date of treatment, hence his case may not be admitted by the CGHS. He has therefore not furnished his claim before the CGHS authorities, and chosen to file his claim before the Postal Department.

18. A careful reading of the OM issued by MHFW dtd.29.09.2016, referred to above, indicates that all pensioners residing in CGHS covered areas, are required to get themselves registered in CGHS. They cannot opt out of CGHS and avail any other medical facility i.e. Fixed Medical Allowance. Even if they do not choose to avail CGHS facility by depositing the required contributions, they cannot be granted any Fixed Medical Allowance in lieu of CGHS. The wording of the OM clearly imply that all pensioners residing in CGHS areas are supposed to get registered in CGHS at least w.e.f. 29.09.2016 i.e. the date of issuance of this OM. Hence, there would be no reason for the CGHS authorities not to entertain the claim for reimbursement of treatment availed by the spouse of the pensioner for the treatment taken between 24.12.2018 to 28.12.2018. They should consider granting him retrospective registration in CGHS w.e.f. 29.09.2016, the date on which this



OM was issued, for which an application may be made by the applicant to the concerned authorities.

19. The prayer of the applicant that he may be granted reimbursement under CS (MA) Rules is without any merit since it is absolutely clear from the rules themselves, that CS(MA) Rules are not applicable to pensioners and the claims for reimbursement of medical expenditure have to be made under CGHS only, particularly in case of pensioners residing in CGHS covered areas.

20. It is noted that the applicant has not made Ministry of Health & Family Welfare and CGHS as party respondents in this case. Hence, it would not be appropriate at this stage, to issue directions to Ministry of Health & Family Welfare or CGHS, to consider the applicant's claim. The applicant is directed to submit his claims before the CGHS authorities, and in case his claim is not entertained by them, then he would be at liberty to approach this Tribunal for relief.

21. The OA is accordingly disposed of with the above directions. However, there shall be no orders so as to costs.

(RAKESH KUMAR GUPTA)
MEMBER (ADMN)

(SURESH KUMAR MONGA)
MEMBER (JUDL)