

Reserved

**CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH
JABALPUR**

Original Application No.200/00431/2020

Jabalpur, this Tuesday, the 3rd day of August, 2021

**HON'BLE SHRI RAMESH SINGH THAKUR, JUDICIAL MEMBER
HON'BLE MS. NAINI JAYASEELAN, ADMINISTRATIVE MEMBER**



Smt. Gayatri Tiwari, W/o Late Roop Narayan Tiwari
Aged about 66 years,
H.No. 351 Champa Nagar,
Lala Lajpat Rai Ward,
Manegaon, Ranjhi Jabalpur (MP) 482005

-Applicant

(By Advocate – **Shri A.K.Pare**)

V e r s u s

1. Union of India, Ministry of Health and Family Welfare, Department of Health and Family Welfare Nirman Bhawan, New Delhi
2. Director Central Government Health Scheme CGHS Building, R.K.Puram Sector 12, Near Delhi Public School, Delhi- 110022
3. Additional Director, CGHS 1544 A/1 Napier Town, Home Science College Road, Jabalpur, M.P. 482001
4. Senior General Manager, Gun Carriage Factory, Jabalpur M.P. 482002

- Respondents

(By Advocate – **Shri S.P.Singh**)

(Date of reserving the order:-24.02.2021)

O R D E R

By Ramesh Singh Thakur, JM:-

Precisely the case of the applicant is that the husband of the applicant had retired from the post of Assistant



Foreman on 28.02.2011 from GCF, Jabalpur and died on 23.11.2015. A copy of pension pay order dated 20.12.2010 and death certificate dated 14.12.2015 are filed as Annexure A-1 & A-2. Being retired from the Central Govt. Department the husband and the dependents of his family members including the applicant are entitled for the benefit of medical treatment under Central Govt. Health Scheme. A copy of the CGHS scheme is filed as Annexure A-3. After the death of her husband the applicant availing the benefits of scheme as such is entitled for treatment from the dispensary of respondent No.2. A copy of medical treatment card is filed as Annexure A-4. The unmarried son of the applicant met with an accident during the midnight of 30-31/03/2013, sustained injury and permanent physically and mentally disabled 50%. A copy of disability certificate dated 04.07.2017 is annexed as Annexure A-5. The son of the applicant is totally depending on his mother as he is 50% disabled. Even he cannot move without the help of applicant. A copy of family declaration and certificate issued by respondent No.4 dated 04.12.2019 is annexed as Annexure A-6. Looking to the above facts and circumstances the applicant's son is covered under CGHS and entitled for medical treatment through



CGHS. Therefore she submitted an application for issuing medical treatment card for her son before respondent No.3 on 27.12.2019. A copy of application dated 27.12.2019 is annexed as Annexure A-7. Vide order dated 27.01.2020 the respondent No.3 denied to extend the benefit to unmarried son of the applicant suffering from permanent disability. A copy of order dated 27.01.2020 is filed as Annexure A-8. As per CGHS order dated 07.05.2018 and 01.01.2020 the son of the applicant is entitled for treatment through CGHS as he is permanently disabled. A copy of the order dated 07.05.2018 and 01.01.2020 is filed as Annexure A-9.

2. The main ground for challenging the action of the respondents is that as there is provision regarding sons and daughters can be included under the scheme until they get married, start earning or reach the age of 25, whichever is earlier. However, a son who suffers from a physical or mental disability can be covered under the policy even after he crosses the age of 25 years as per order dated 01.01.2020.

3. The respondents have filed their reply to the Original Application. In the preliminary submissions of reply they have submitted that on attaining the age of superannuation the husband of the applicant had applied for CGHS card and



CGHS card was issued to him with his wife on 19.10.2011. As per office record he has not shown the name of his son Deepak Tiwari as dependent son. As per Annexure A-5 of the Original Application the date of birth of Deepak Tiwari mention as 02.05.1987 i.e. below 25 years and as per definition under CGHS Rules, the son up to the age of 25 years are eligible for CGHS facilities as dependent family members, but the husband of the applicant had not included the name of his son as his dependent family member.

4. As per Government of India Ministry of Health and Family Welfare's instructions dated 26.05.1999 "CGHS card is issued to the family and dependents of the Central Government servant/pensioner. On the death of the Central Government servant/pensioner who was availing CGHS facilities, the spouse/children who become family pensioners continue to avail the same CGHS facilities as was being availed by the Central Govt. servant/pensioner prior to his death. Hence the scope of the term family and/or dependent of the Central Govt. servant/pensioner cannot be further extended to the family pensioner who starts drawing family pension after the demise of the Central Govt. servant/pensioner." As such the respondent No.3 has

informed the applicant vide letter dated 24/27.01.2020 that as a family pensioner no addition can be allowed to her. It is further submitted by the respondents that order dated 07.05.2018 and 01.01.2020 cannot be made applicable in the present case as the applicant is a family pensioner. Hence the action of the respondents vide order dated 24/27.01.2020 is as per rules.



5. The applicant has filed the rejoinder to the reply filed by the respondents, wherein the applicant has reiterated its earlier stand taken in the O.A. The applicant submits that as per requirement husband of the applicant submitted prescribed CGHS form for CGHS card for him, wife and son and the respondents required signature of every member of the family in his presence and at the relevant time his son was not available at Jabalpur. An index card (slip)/temporary in which it has been stated that this slip is valid till issue of plastic card on 11.11.2011 had been issued without including the name of Deepak (Son of the applicant), with an assurance that his name will be included after his signature on office record. After sometime, son of the applicant approached to the respondents for the CGHS card, the same was denied stating that as he has completed 25 years of his

age he is not entitled for CGHS facilities. A copy of CGHS forms duly filled up and received and index card are filed as Annexure A-10 and A-11 respectively.



6. The counsel for the applicant further submitted vide order dated 31.05.2007 it has been decided to re-fix the age limit for dependent son suffering from any permanent disability of any kind (physical or mental) by irrespective of age limit and the son of the applicant suffering from disability since 31.03.2013 by an accident. A copy of the order dated 31.05.2007 is annexed as Annexure A-12.

7. The respondents have filed their additional reply to the rejoinder filed by the applicant. The respondents have submitted that the husband of the applicant and deceased principal card holder applied for CGHS card through online CGHS portal of Ministry of Health & FW mentioning only two names self and his wife. Their photographs have been pasted with attestation on the second page of the application. There is no mention of son Deepak Tiwari in the said application. Online form is prerequisite for new CGHS card. After completion of online application for new CGHS card through CGHS portal, an acknowledgment number is automatically generated which is referred for future



correspondences. Copy of new CGHS care application with generated acknowledgment No. T566292 is enclosed as Annexure AR-1. Applicant's husband had an opportunity to include the name of his son till he attained the age of 25 years in May 2012 but he did not take advantage of it for which only photograph was required and no signature was required. There is interval of more than 6 month's period in first off line application in March 2011 and online application generated from CGHS portal in November 2011. It may be construed that applicant was reluctant to add name of his son when he was alive. The respondents further states that O.M. dated 26.05.1999 clarifies that family pensioner continue to avail CGHS facilities as was being availed by the Central Govt. servant/pensioner prior to his/her death. Hence the scope of the term family and/or dependent of the Central Govt. servant/pensioner cannot be further extended to the family pensioner who starts drawing family pension after the demise of the Central Govt. servant/pensioner." The respondents further submitted that application was never received in the office nor any demand draft was received. No receipt of CGHS application was given by CGHS office, hence no record is available. Applicant was verbally denied

but advised to apply online through CGHS portal. CGHS card No. 145759/P was issued on 11.11.2011 enclosed as Annexure A-11.

8. We have heard the learned counsel for both the sides and have gone through the pleadings and the documents annexed therewith.

9. From the pleadings it is clear that the husband of the applicant retired from the post of Assistant Foreman on 28.02.2011 and died on 23.11.2015. Having retired from the Central Govt. Department the husband and the dependents of his family members including the applicant are entitled for the benefit of medical treatment under CGHS scheme. The unmarried son of the applicant met with an accident during the midnight of 30-31/03/2013, sustained injury and permanent physically and mentally disabled 50%. The son of the applicant is totally dependent on his mother as he is 50% disabled and cannot even move without the help of applicant. Looking to the above facts and circumstances the applicant's son is covered under CGHS and entitled for medical treatment through CGHS. Therefore she submitted an application for issuing medical treatment card for her son before respondent No.3 on 27.12.2019. The respondent No.3



denied to extend the benefit to unmarried son of the applicant suffering from permanent disability.

10. The main grounds for challenging the action of the respondents are that there is provision regarding sons and daughters can be included under the scheme until they get married, start earning or reach the age of 25, whichever is earlier. However, a son who suffers from a physical or mental disability can be covered under the policy even after he crosses the age of 25 years.

11. On the other side, the respondents in their reply have submitted that the on attaining the age of superannuation the husband of the applicant had applied for CGHS card and CGHS card was issued to him with his wife on 19.10.2011. As per office record he has not shown the name of his son Deepak Tiwari as dependent son. As per Annexure A-5 of the Original Application the date of birth of Deepak Tiwari mention as 02.05.1987 i.e. below 25 years.

12. The son of the applicant suffers from disability after the retirement of his father. The accident took place during the mid-night of 30-31.03.2013 in which he sustained injury and permanent physical and mental disability of 50%. The respondents have relied upon the clarification dated



26.05.1999 qua the medical facility for the dependents of the deceased CGHS beneficiaries, which is annexed with the reply. This clarification reads as under:

“Please refer to your letter dated 17.02.1999 stating that in view of the fact that a female Government servant has the option to avail medical facilities either for her parents or parents-in-law, a clarification may be given whether the said option is available to a female family pensioner also.



In this connection, It is stated that the CGHS card is issued to the family and dependents of the Central Government servant/pensioner. On the death of the Central Government servant/pensioner who was availing CGHS facilities, the spouse/children who become family pensioners continue to avail the same CGHS facilities, as was being availed by the Central Government servant/pensioner prior to his/her death. Hence, the scope of the term family and/or dependent of the Central Government servant/pensioner cannot be further extended to the family pensioner who starts drawing family pension after the demise of the Central Government servant/pensioner.”

13. The clarification dated 26.05.1999 specifies that the scope of term family and/or dependent of the Central Govt. servant/pensioner cannot be extended to the family pensioner who starts drawing family pension after the demise of the Central Govt. servant/pensioner. However, the Office Memorandum dated 31.05.2007 (Annexure A-12) has removed the age limit for dependent children of Government servants and pensioners for availing medical facilities under CGHS in case the son is suffering from any permanent disability of any kind (physical or mental). Therefore, in



normal course, the son would have been entitled to the facilities under the CGHS card. However, it appears that the applicant was verbally denied adding his son's name and was advised to apply online through the CGHS portal. The contention of the respondents is that the online form is a prerequisite for a new CGHS card and it is presumed that the husband of the applicant was reluctant to add name of his son when he was alive. However, it cannot be construed that the deceased employee was not interested to add name of his son. The insistence on online application may have dissuaded the husband of the applicant to apply for his son's card. That could be the reason in the delay of six months between the first offline application and the online application in the CGHS portal. Merely because an online application was not submitted (for whatever reason), cannot be a ground for rejection of a facility to which the applicant's son is otherwise entitled. As per existing record, the applicant's son is entitled to be included as CGHS beneficiary. Since his name is currently not included as a CGHS beneficiary, the parent department, i.e. Gun Carriage Factory, Jabalpur and CGHS is directed to recheck the service record of the deceased employee and confirm whether the name of the

son was included in the service record and whether he was a CGHS beneficiary when his father was alive, if yes, the process for including his name as a CGHS beneficiary may be initiated as his disabled son is otherwise entitled to be included as a CGHS beneficiary.



14. This exercise shall be completed within a period of four months from the date of receipt of a copy of this order.

15. Accordingly, the Original Application is partly allowed. No order as to costs.

(Naini Jayaseelan)
Administrative Member
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(Ramesh Singh Thakur)
Judicial Member