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RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD

TRANSFER APPLICATION NO.196 of 1986

Suresh Chandra Dixit

... Plaintiff
appellant.

Versus

Union of India

... Defendant-
respondent.

Hon'ble D.S.Misra-AM

Hon'ble G.S.Sharma-JM

(By Hon'ble D.S.Misra)

This is an appeal filed in the court of District Judge Farrukhabad, which has come on transfer under Section 29 of the Administrative Tribunals Act XIII of 1985.

2. The appeal is against the judgment and decree dated 10.11.1982 passed in Original Suit no. 253 of 1979 dismissing the declaratory suit of the plaintiff.

3. The plaintiff-appellant had filed the suit seeking declaration that he was entitled to receive Rs. 3247.27 P. towards reimbursement of medical expenses and interest, at the rate of 12 per cent on the above mentioned amount. The plaintiff is an employee of the Post and Telegraph Department and was posted at Post Office Fatehgarh on the relevant date. He and members of his family were entitled to receive free treatment under the Central Government Employees Medical Attendance Rules, 1974.

4. The plaintiff had submitted claims

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for reimbursement of expenses incurred on the treatment of the members of his family to the Superintendent Post Office Lucknow and Almora but the same had been rejected by the Director Postal Services Lucknow in an arbitrary manner without giving any reason. His appeal to the Post Master General was also rejected. In the written statement filed on behalf of the defendants, it was stated that the plaintiff was entitled to reimbursement of expenses in respect of only such bills as was found to be genuine and it was the responsibility of the plaintiff to prove that the claims were genuine; that the claims were rejected under Rule 3(ii) of Central Services Medical Attendance Rules 1974; that the controlling authority was not satisfied with the genuineness of the claim submitted by the plaintiff and the decision of the Director Postal Services Lucknow was communicated to the plaintiff vide letter dated 8.9.1976; that it was not necessary for the controlling officer to intimate the reasons for rejecting the claims made by the applicant. On the basis of the pleadings of the parties, the learned trial court framed six issues and dismissed the suit on the following grounds; that the order dated 8.9.1976 rejecting the claim of the plaintiff and the appellate order dated 8.9.1979 of the Post Master General rejecting the appeal were not final orders and that the plaintiff should have appealed to the Post and Telegraph Department Council against the order of the Post Master General before approaching the Civil Court and that the suit was barred by Section 24 of the Specific Relief Act of 1963 as the

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applicant has sought only a declaration of being entitled to receive payment but did not seek the payment of the amount claimed by him.

5. The appellant himself argued the case and it was contended by him that the defendant-respondent had lost the original receipt and other papers sent by him claiming reimbursement of medical expenses. Learned trial court has discussed this aspect of the matter and has come to the conclusion that the plaintiff had failed to prove that while submitting his claim for reimbursement of medical expenses, he had complied with the requirements of Rule 3(2) of the Civil Service Medical Attendance Rules and Rule 318 of the Financial Hand Book. Under Rule 3(2) of the Medical Attendance Rules it is necessary to submit the required certificate of the Authorised Medical Attendant and under rule 318 of the Financial Hand Book, it is necessary to submit the bill along with cash memos, vouchers. The controlling authority is competent to reject a claim, if the requirement prescribed under Rule 3(2) of the Medical Attendance Rules is not fulfilled by the claimant. Rule 3(2) of the Medical Attendance Rules states as follows " provided that a controlling officer shall reject any claim, if he is not satisfied with its genuineness on facts and circumstances of each case". Paper no. 28-Ga is copy of the order dated 8.9.1976 by which the claim of the applicant was rejected by the controlling officer. Learned trial court has observed that the plaintiff had not forwarded the vouchers and the certificate of the authorised medical attendant while forwarding the duplicate cash memos for which

reimbursement was claimed and has held that the orders passed by the controlling officer was a correct order.

6. We have examined the matter and we find that the above finding of the learned trial court is based on a proper appreciation of the facts of the case and the rules applicable to the case. The other finding of the learned trial court that the plaintiff had not exhausted all the remedies available to him under the rules is based on the admission of the plaintiff himself who has admitted in his statement that he was entitled to file a representation/appeal to the Council of the Post and Telegraph Department against the order of the Post Master General. The appellant contended that the plaintiff did not file a representation against the order of the Post Master General because the Post Master General happens to be a member of the Council which considers the representation against the decision of the Post Master General. We are of the opinion that this argument of the plaintiff-appellant is not at all convincing and has to be rejected.

7. The second ground taken by the appellant is that the provisions of Section 34 of the Specific Relief Act, 1963 were not applicable to the present case, has also been examined by us. The proviso to Section 34 of the Specific Relief Act, 1963 reads as follows:

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"Provided that no court shall make any such declaration where the plaintiff being able to seek further relief than a mere declaration of title, omits to do so."

The learned trial court has rightly held that the suit was barred due to the fact that the plaintiff had failed to claim payment of the amount for which the declaration was sought.

6. For the reasons mentioned above, we are of the opinion that there is no substance in the appeal and it is dismissed without any order as to costs.

Bhme
24.2.87
A.M.

Sundararao
24/2/87
J.M.

Dt. 24.2.1987.

JS