

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD

Original Application No. 848 OF 2007

(DATE OF DECISION:- 25TH OF MAY, 2011)

Present

HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J)

Phool Chandra Prajapati, S/o Sri Ram Das Prajapati, R/o C-32/10, O.F.D.
Estate, Raipur, District Dehradun.Applicant

Advocates for the applicant:- Sri P. Srivastava.

V E R S U S

1. Union of India, through Ministry of Director General, Ordnance
Factories Board, Kolkata.
2. The General Manager, OPTO ELECTRONICS Factory, Raipur, District
Dehradun.Respondents

Advocate for the Respondents:- Shri R.K. Srivastava, Ld. counsel

ORDER (ORAL)

PER: SHRI SANJEEV KAUSHIK, MEMBER (J):

By way of the instant Original Application filed under Section 19 of the
Administrative Tribunal Act 1985, the applicant seeks quashing of order
dated 9.8.2007 (Annexure A.I) vide which the respondents has passed
an order for recovery of Rs. 1,22,443/- that too from the salary of the
applicant in installments of Rs.5000/-.

2. I have heard Shri Pankaj Srivastava Ld. Counsel for the
applicant and Shri Dharmendra Tiwari holding brief of Shri R.K.
Srivastava, Ld. counsel for the respondents.
3. Ld. Counsel for the applicant has argued that the impugned order
is in violation of settled position of law and even after retirement the

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son can claim reimbursement of medical bills of his father who retired from service. He further argued that an enquiry was conducted by the respondents in which the applicant was found guilty and minor punishment of stoppage of one increment for an year has been imposed. He relied upon the judgement passed by the Hon'ble Supreme Court in the case of **State of M.P. and Ors. vs. M.P. Ojha and Anr. 1998 SCC (L&S) 633**. On the other hand Learned counsel for the respondents has argued that since the father of the applicant was also Government Servant and now retired, therefore he cannot be said to be depending upon the applicant and as such the applicant cannot claim the reimbursement of medical bill from the respondents. Further he submitted that the applicant was ~~not~~ found guilty of charges in the enquiry and the punishment was also inflicted upon him, which was not challenged by the applicant.

4. I have considered the rival submissions made by the Learned Counsel for the respective parties. It is admitted that the applicant claimed the reimbursement of medical bills of his father for which the applicant was charge-sheeted by the respondents vide charge sheet dated 20.4.2004 at page 74 of the Paper Book and the same Charges states that he has claimed the reimbursement of medical bills of this father and TA/DA expenses incurred to carry his father to S.P. Prajapati, to SGPGI, Lucknow and aback along with him. It is also claimed for medicines prescribe during check ups. In inquiry the applicant was held guilty and punishment has been inflicted by downgrading one stage below for a period of one year in the scale in

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which he was working. Further he was not entitled for increment during that year.

5. Be that as it may, the Hon'ble Apex Court in case of **State of M.P. And Ors. vs. M.P. Ojha and anr. (surpa)** has specifically held as under:

"13. The expression "wholly dependent" is not a term of art. It has to be given its due meaning with reference to the Rules in which it appears. We need not make any attempt to define the expression "whole dependent" to be applicable to all cases in all circumstances. We also need not look into other provisions of law where such expression is defined. That would be likely to lead to results which the relevant rules would not have contemplated. The expression "wholly dependent" has to be understood in the context in which it is used keeping in view the object of the particular rules where it is contained. We cannot confine the meaning of "wholly dependent" by reading into the definition as given in SR 8 (sic SR 2 (8) which has been reproduced above. Further, the expression "wholly dependent" as appearing in the definition of family as given in Medical Rules cannot be confined to mere financial dependence. Ordinarily dependence means financial dependence but for a member of a family it would mean other support, may be physical as well. To be "wholly dependent" would therefore mean both financial and physical dependence. The support required is physical and a member of the family is otherwise financially sound he may not necessarily be wholly dependent. Here the father was 70 years of age and was sick and it could not be said that he was not wholly dependent on his pension of Rs. 414 per month which by any standard is a paltry amount. It could not be said that the father was not "wholly dependent" on his son. That the father had a separate account of being a retired Govt. Servant is immaterial if the case falls within the Medical Rules being a member of the family of his son and wholly dependent on him. A flexible approach has to be adopted in interpreting and applying the Rules in a case like the present one. There is no dispute that the son took his father to Bombay for treatment for his serious ailment after getting due permission from the competent authority. It was submitted before us that the father being a retired Government Servant could himself get sanction for treatment outside the State as a special case from the competent authority. It is not necessary for us to look into this aspect of the matter as we

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satisfied that under the relevant Medical Rules, the father was a member of the family of his son and was wholly dependent on him and the 2nd respondent was thus fully entitled to reimbursement for the expenses incurred on the treatment of his father and other travelling expenses."

6. In view of the above discussion, the impugned order dated 9.8.2007 is set aside. No other point raised. Accordingly the O.A. is allowed. No order as to costs.

Sanjeev Kaushik
(Sanjeev Kaushik)
Member (J)

sj*