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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO.688 OF 1995
Cuttack, this the 23rd day of July, 1996

All India Archaeological Service Association ... Applicant

-versus-

Union of India & others Respondents

(FOR INSTRUCTIONS)

- 1) Whether it be referred to the Reporters or not? *Yes*
- 2) Whether it be circulated to all the Benches
of the Central Administrative Tribunal or not? *No*

N. Sahu
(N.SAHU)
MEMBER (ADMINISTRATIVE)

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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO.688 OF 1995
Cuttack, this the 23rd day of July, 1996

CORAM:

HONOURABLE SHRI N.SAHU, MEMBER (ADMINISTRATIVE)

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All India Archaeological Service Association, ... Applicant
Chemistry Branch Unit, Bhubaneswar,
represented through its Secretary,
Abhimanyu Satapathy,
now working as L.D.C.,
Office of Assistant Superintending Archaeological
Chemist, Eastern Zone,
Bhubaneswar-2,
Dist.Khurda

By the Advocates

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M/s B.N.Nayak, A.K.Dora &
B.B.Mohapatra

-versus-

1. Union of India,
represented through the
Secretary,
Ministry of Human Resources &
E.D., Shastri Bhawan,
New Delhi.

2. Director of Science Archaeological
Survey of India,
29, New Cantt Road, Dehradun,
Uttar Pradesh

3. Deputy Superintending Archaeological
Chemist, Bhubaneswar-2,
Dist.Khurda

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Respondents

By the Advocate

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Mr.Ashok Mohanty,
Sr.Central Govt.
Standing Counsel.

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O R D E R

N.SAHU, MEMBER (ADMN.)

The applicant, a Service Association requires the Respondents, Archaeological Survey of India, to make payment of all medical reimbursement bills without insisting upon production of empty bottles, wrappers, etc. The applicant Association is a recognised Association, named as All India Archaeological Service Association. As per Rule 6(2) of the Central Services (M.A.) Rules, a Government servant is entitled to get reimbursed to him the medical expenses/charges incurred by him on production of a certificate in writing by the authorised medical attendant in this behalf. The proviso enables the Controlling Officer to reject any claim if he is not satisfied with its genuineness. Normally the Government servant who makes the claim submits prescriptions, cash memo and essentiality certificate filled in by the A.M.A. By an office order dated 1.9.1983, which is impugned, the authority directed that along with the above requirements, medicines also should be shown and if "portion of the medicines (liquid) and tablets are used, the empty bottle and wrapper" will have to be shown for passing a medical bill. This condition was challenged in O.A.No.410-CH/1987 before the Chandigarh Bench in the case of Murari Lal v. Union of India. It has been heldⁱⁿ that case that such demand of empty containers and wrappers is improper especially when the competent medical authority has certified the genuineness of the claims. Following this judgment, a representation was addressed on 20.9.1993 to the Deputy Superintending Archaeological Chemist, Bhubaneswar (Respondent No.3). This was forwarded by him to Respondent No.2,

the Director (Science), Archaeological Survey of India. The apex authority, namely, the Director General discussed along with the Secretary General of AIASA this representation relating to stopping of production of empty bottles and wrappers, etc. for passing medical bills in the 44th Ordinary Meeting on 7.9.1994. The minutes merely recorded the obvious : "D.G. ^{that} directed ~~the~~ concerned officers may be advised to pass genuine medical claims."

2. There is no specific order refusing a medical claim on the ground that empty bottles and wrappers are not produced. The question remains as to whether the present representation for dispensing with production of empty bottles and wrappers invariably in every case of medical claim can be held to be justified.

3. The Respondents in the counter affidavit state that the O.A. is not maintainable as the applicant is not a duly registered Union and further the application is barred by limitation inasmuch as no order affecting any of the service conditions of the member has been passed in this case. It is stated that the impugned instructions under Annexure-A/1 are complied by all employees since 1983. It is stated that most of the staff claim huge amounts by way of medical reimbursement and the circular dated 1.9.1983 was only ^{one} way of checking and verifying the genuineness of the preferred claims. In paragraph 14 of the counter affidavit it is stated that the instructions to the Controlling Authorities are to the effect that 5% of the bill exceeding Rs.500/- a year of an individual officer should be carefully checked and all claims in excess of Rs.1000/-

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should be thoroughly scrutinised. In reply to this the applicant states that their Association has been approved by All India Archaeological Service Association for two years vide notification dated 16.12.1994 and the members are regularly subscribing to the said Association by way of membership fee and the same is being deducted from the salary of each member by virtue of a general notification issued by the Respondent No.2. What the Association is aggrieved of is not the right of the Controlling Authority to check the genuineness, but the demand for production of empty bottles and wrappers along with medical claim.

4. It is not necessary for an application to be entertained that there should be an order which is to be impugned. The jurisdiction of the Tribunal is in relation to all service matters concerning a Government servant. Section 19 of the Administrative Tribunals Act, 1985 is a procedural section which says that a person aggrieved by any order pertaining to any matter may make an application to the Tribunal. A grievance may exist against an adverse service condition which impinges on the rights of an individual employee. The particular instruction of the Government is not an "order" and yet the Government servant may be aggrieved by the instruction. It is not necessary that the Tribunal's jurisdiction can be invoked only when there is an order to an individual employee. Any instruction or notification which affects the service conditions of an individual or a group of employees can be the subject-matter of an application.

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The next question is on the admission of the application under Section 20 of the Act. Here again the applicant first represented against the instruction and when it was not disposed of, the Association had taken it up for adjudication. The instruction may be of 1.9.1983. The employees affected by it might not have challenged it earlier, but having found that in spite of the judgment of the Chandigarh Bench referred to above, the instructions were not modified, the applicant submitted representation. While the Director-General's minutes have not decided much and have only highlighted the obvious, yet the Association felt that these instructions are contrary to the instructions on the subject. The General Secretary of All India Archaeological Service Association addressed a letter dated 6.2.1995 (Annexure-A/4) to the Respondent No.3 not to insist upon production of empty bottles and wrappers. Even here Respondent No.3 sought for instructions and final instructions have never been issued. Thus, although the circular may be dated 1.9.1983, yet in view of the representations on the subject till recently which have not been disposed of, this application cannot be held to be barred by limitation.

5. Rule 6(2) of Central Services (M.A.) Rules is reproduced as under;

"(2) Where a Government servant is entitled under sub-rule(1), free of charge, to treatment in hospital, any amount paid by him on account of such treatment shall, on production of a certificate in writing by the authorized medical attendant in this behalf, be reimbursed to him by the Central Government;

Provided that the controlling officer shall reject any claim if he is not satisfied with its

genuineness on facts and circumstances of each case,
after giving an opportunity to the claimant of being
heard in the matter. While doing so, the controlling
officer shall communicate to the claimant the reasons,
in brief, for rejecting the claim and the claimant
may submit an appeal to the Central Government
within a period of forty-five days of the date
of receipt of the order rejecting the claim."

(Emphasis supplied)

The controlling officer can reject a claim if he is not satisfied with its genuineness on facts and circumstances of each case after giving an opportunity to the claimant of being heard in the matter. It is also stated that the controlling officer shall communicate to the claimant the reasons for rejecting the claim whereupon the claimant may submit an appeal to the Central Government within a period of forty-five days. This Rule does not postulate as a pre-condition that in every case of medical claim, wrappers and empty bottles should be produced. Normally in all medical claims the certificate of the authorised medical attendant mentioned the nature of the disease, duration of treatment, medicine prescribed, etc. The cash memo in token of having purchased the medicines is also enclosed. The controlling officer is not expected to start looking at all the claims with suspicion. After an initial screening it is quite likely that a substantial percentage of the claims may be found to be genuine. It is only in those claims where the genuineness is suspect, that he can insist on details of corroborative evidence. These may or may not necessarily be wrappers and empty bottles. There may be other methods of enquiring into genuineness. I agree, with respects, in the decision of the Chandigarh Bench that such insistence on wrappers and empty bottles as a pre-condition is improper. It is

only in cases where the competent controlling authority suspects the genuineness of the claim, it can ask for such other evidence which it is possible to produce. By now experience must have taught the Respondents how to move about enquiring into the genuineness of the claims. To begin with the certificate given by the medical practitioner should be impugned, or the purchase bills for medicines must be held to be suspect. If there is reason to hold that only bills are issued and not the medicines, then, of course, Respondents may call for other evidence like wrappers and empty bottles. But to insist as a pre-condition that such evidence be produced in every claim is improper. Such a course of action is premised on disbelief and suspicion of every claim which is unwarranted. Respondent No.2 shall dispose of the representations at Annexures A/2 and A/5 in the light of the above discussion and direct passing of the medical bills in the light of the above observations.

The O.A. is disposed of in the above manner.

Narasimhaiah
(N.SAHU) 23/7/96
MEMBER (ADMINISTRATIVE)

A.Nayak, P.S.