

Order dated 29.10.2003

Heard Shri A.S.Nandi, learned counsel for the applicants and Shri S.B.Jena, learned Addl.Standing Counsel appearing on behalf of the Respondents-Department and perused the materials available on record.

This Original Application, under Section 19 of the A.T.Act, 1985 has been filed by a group of 16 civilian employees of Station Workshop E.M.E., Chandipur, Balasore ventilating their grievance with regard to non-disbursement of fixed medical allowance to them at the rate of Rs.100/- per month, to which they ^{are} entitled to pursuant to the decision of the Ministry of Defence, as communicated under Annexure-1 dated 1.1.1999.

The case of the applicants is that although there is no medical facility at Chandipur (which has been certified by the District Medical Officer that there is no medical facility within a radius of 5 kms./Annexure-2/2) the Respondents have neither paid ^{them} any fixed medical allowance nor allowed them reimbursement of medical expenses. They have been representing the matter to the authorities repeatedly since 2001, but without any effect. They have, therefore, approached this Tribunal for declaring that they (applicants) are entitled to fixed medical allowance at the rate of Rs.100/- per month with effect from 1.1.1999 and that the Respondents be directed to pay them the said allowance not only for the current period but also along with arrears payable from 1.1.1999.


The Respondents-Department through their counter
Kavita

8

have denied the allegations made in the Original Application and have submitted that the allowance could not be paid to the applicants as they failed to comply with the requirement for becoming entitled to fixed medical allowance. They have further submitted that the applicants, when they expressed their willingness to opt for fixed medical allowance of Rs.100/- per month in the month of April, 2001, they were asked to give an undertaking to the effect that they would not avail medical facility of Army Section Hospital at Chandipur and that they would also not claim reimbursement of medical expenses incurred, but they did not submit any such undertaking. It is because of this lack of cooperation from the applicants' side that the Respondents could not introduce fixed medical allowance scheme in the said establishment.

I have heard the rival submissions carefully and given my anxious consideration to the arguments advanced at the Bar.

It is not necessary here to go into the nuts and bolts of the entire controversy, because the question involved here is ~~is~~ very simple. The instruction to be complied with by the applicants for the purpose of grant of fixed medical allowance is that they should submit, on individual basis, an undertaking in the prescribed form supplied to them by the Respondents. In that undertaking the optees are to impeach themselves that once they avail fixed medical allowance of Rs.100/- per month, they will not avail any other medical facility of the Government or claim medical expenditure to be incurred by an official for outdoor purpose for his family's medical treatment.

During the oral argument, the learned counsel for the applicants submitted that the applicants have no objection to rendering such an undertaking on individual basis, but the fact of the matter is that they were not only formally asked to submit option nor were they supplied with prescribed forms in which undertaking was to be rendered. The learned Addl. Standing Counsel confirmed that once undertaking as prescribed by the Respondents is submitted by each of the applicants, the Respondents could have no problem in extending the benefit of fixed medical allowance. This being the position of the matter, I hereby direct the applicants to submit an undertaking individually (in case they are willing to avail fixed medical allowance) to switchover to the fixed medical allowance scheme to the Respondents in the form prescribed for the purpose by the latter, whereupon the Respondents-Department shall act on the individual undertaking in accordance with rules/instructions.

Incidentally on perusal of Annexure-R/44, I noticed some infirmity/ambiguity in the prescribed form provided by the Respondents. For the sake of clarity, I would call upon the Respondents to slightly modify the wordings of the option certificate by substituting the word 'any' to read as follows:

"...I further certify that I will not avail medical facilities or claim medical expenditure incurred by me for outdoor medical treatment".

With the above direction and observation, this O.A. is disposed of. No costs.

h.s.s.
VICE-CHAIRMAN

Copy of order
of 29/10/03 issued
to the counsel for
both sides. *D.M. 11.07*
S.O.

11/11/03