

**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK**

ORIGINAL APPLICATION NO. 841 OF 2006
CUTTACK, THIS THE 13th DAY OF October, 2009

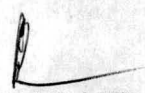
A.N.Rao Applicant


Vrs.

Union of India & Ors Respondents

FOR INSTRUCTIONS

1. Whether it be referred to the Reporters or not ?
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not ?


(C.R. MOHAPATRA)
MEMBER (ADMN.)


(K. THANKAPPAN)
MEMBER (JUDL.)

**CENTRAL ADMINISTRATIVE TRIBUNAL
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CORAM :

HON'BLE MR. JUSTICE K.THANKAPPAN, MEMBER(J)
HON'BLE MR. C.R.MOHAPATRA, MEMBER(A)

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Sri A.N.Rao @ A.Narsingh Rao, aged about 75 years, S/o. Late A.Rama Rao, Retd. Sr. Superintendent of Post Office, Resident of Hillpatna, At/PO. Berhampur, Dist- Ganjam.

... Applicant

By the Advocates – Mr. M.B.K.Rao.

-Versus-

1. Union of India, represented by the Secretary, Ministry of Communications, Department of Posts, Govt. of India, Dak Bhawan, New Delhi- 110001.
2. The Chief Postmaster General, Orissa Circle, Bhubaneswar- 751001.
3. The Postmaster General, Berhampur (Gm) Region, Berhampur (Gm)-760001.

... Respondents

By the Advocates - Mr. B.K.Mohapatra

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ORDER

HON'BLE MR. JUSTICE K. THANKAPPAN, MEMBER(J):

Applicant is a retired Senior Superintendent of Post Offices. He has filed this Original Application questioning the legality and validity of the order dated 18.08.2006 at Annexure-A/6, whereby and whereunder his claim for medical reimbursement has been rejected on the grounds that the said claim is not admissible as per the instructions issued by the Chief Post Master General, Orissa, as per C.O. letter No. AP/Misc.-2006 dated 27.04.2006 to the effect that CS(MA) Rules, 1944 are not applicable to the retired Govt. servants. In the circumstances, the applicant has sought for the following relief:

“(i) To quash order under Annexure-A/4 which was issued as per the instruction of the Chief Postmaster General, Orissa intimated vide C.O. Letter No. AP/Misc.-2006 dt. 27.4.2006, with a direction for reimbursement of the Medical Bills as per Annexure-A/1 series”.

2. The Respondent-Department have filed their counter contesting the O.A. and have attempted to justify their action.
3. Applicant has filed a rejoinder to the counter, more or less, reiterating the submissions as made in the O.A.

4. We have heard Shri M.B.K.Rao, Ld. Counsel for the applicant and Shri B.K.Mohapatra, Ld. Additional Standing Counsel for the Respondents and perused the materials on record.

5. Since the matter is to be decided on the point of law, it is not necessary to detail status and recognition or facts and figures particularly when there has been no dispute regarding factual aspects of the matter nor the medical reimbursement claims have been rejected due to some defects or infirmity while preferring the said claims. However, it would be suffice to note that the applicant, while working as Sr. Superintendent of Post Offices, retired on superannuation and settled at Berhampur in the State of Orissa with effect from 1.12.1990. According to the applicant, he had been to Visakhapatnam on 24.03.2005 to see his relation, where he suddenly fell ill and was admitted to Care Hospital, Visakhapatnam, which culminated to by-pass surgery etc. Be that as it may, the applicant raised a bill amounting to Rs. 1,61,440/- towards the medical reimbursement, he being entitled to such reimbursement, along with a representation dated 1.8.2003 (Annexure-A/3). The above claim having been rejected, the applicant has approached this Tribunal with the prayer as referred to above.

6. Having regard to the above, the point that emerged for consideration is whether a retired Government employee is entitled to medical reimbursement as per CS(MA) Rules, 1944.

7. It is the case of the applicant that since the pensioners are entitled to C.G.H.S. facilities, similarly, the denial of benefit to reimbursement under CS(MA) Rules is discriminatory. The applicant in support of his contentions has relied on the decisions in the case of State of Punjab vs Mohinder Singh Chawla (AIR 1997 SC 1225) and another decision reported in Swamy's News, April, 2005 (Annexure-A/6). Also the applicant has placed reliance on Annexure-A/5 dated 5.6.1998 in the matter of extension of CS(MA) Rules, 1944 to pensioners residing in areas not covered by CGHS. In this connection, the relevant portion of Annexure-A/5 is quoted hereunder:

"This Ministry has, therefore, no objection to the extension of the CS(MA) Rules to the Central Government pensioners residing in non-CGHS areas as recommended by the Pay commission. However, the responsibility of administering the CS(MA) Rules for pensions cannot be handled by CGHS. It should be administered by the respective Ministries/Departments as in the case of serving employees covered under CS(MA) Rules, 1944. The Department of Pension and Pensioners' Welfare would need to have the modalities worked out for the implementation of the rules in consultation with the Ministries/Departments prior to the measure being introduced to avoid any hardships to the pensioners. The pensioners could be given a one-

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time option at the time of their retirement for medical coverage under CGHS or under the CS(MA) Rules, 1944."

From the above, it is clear at the outset that the pensioners are required to be given a one time option at the time of their retirement for medical coverage under CGHS or under the CS(MA) Rules, 1944. Although, it is clear from the circular issued by the Ministry of Health & F.W. (Annexure-A/6) that the responsibility of handling and/or administering CS(MA) Rules lies on the respective Ministries/Department as in the case of serving employees covered under the said rules, but it is the Department of Pension and pensioners Welfare, prior to measure being introduced in consultation with the Ministries/Department should have the modalities worked out. It is seen that the Department of Pension and Pensioners' Welfare have not taken any action in the matter nor the applicant has produced any such material before this Tribunal laying down the modalities/schemes in so far as application of CS(MA) Rules, 1944 to the pensioners as in case of serving employees is concerned. Also it is not the case of the applicant that during the course of his retirement he had exercised any such option to be covered under CS(MA) Rules. In this respect, we have gone through the decision by the Hon'ble High Court of Kerala at Ernakulam in W.P.(C) No. 14055 of 2005(s) based on the decision of the C.A.T. Ernakulam Bench in O.A. No.

242/05. The point in issue before the Hon'ble High Court was whether the Central Government Pensioners are entitled to the payment in terms of CS(MA) Rules, 1944 for the treatment they had undergone. It is in this background profitable to quote as to what the Ernakulam Bench of the Tribunal held in O.A.No. 242/04-which is appealed of, reads as under:

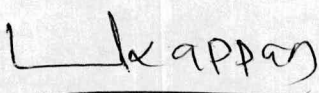
"The Tribunal below relying on the decision reported in State of Punjab v. Mohinder Singh Chawla (AIR 1997 SC 1226) held that it is settled law that right to health is an integral part of right to life and therefore, Government has constitutional obligation to provide the health facilities and the contention of the Union about heavy burden in implementing such scheme could not have been heard. Therefore, the Tribunal quashed Annexure-A4. The Tribunal also directed payment in terms of CS(MA) Rules."

The Hon'ble High Court of Kerala while noting that the principles laid in Mohinder Singh Chawla's case (supra) was a case with reference to the claim for medical benefit as covered by a Medical Benefit Scheme, held that the ratio of the said judgment could not be applied as there was no scheme evolved to cover the Central Govt. pensioners under CS(MA) Rules. In the circumstances, the decision of Ernakulam Bench, as relied on by the applicant is of no help to the facts and circumstances of this case.

8. As indicated above, the applicant has not produced any authority/scheme extending the benefit of CS(MA) Rules, 1944 to the Central Govt. pensioners. In this view of the matter, we do not find any merit in this O.A., which is accordingly dismissed.

No costs.


(C.R. MOHAPATRA)
MEMBER (ADMN.)


(K. THANKAPPAN)
MEMBER (JUDL.)