

JODHPUR THE 27 TH DAY OF SEPTEMBER, 2000.

ORIGINAL APPLICATIONS NO. 468/94 & 212/95

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Date of order : 27.9.2000

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1. G.D.Singh aged 42 years, S/o Shri Karan Singh, presently working as JAO, in the Central Administrative Tribunal, Jodhpur.
2. Gyan Chand aged 42 years, Assistant, S/o Shri Bool Chand, presently working as SO, Central Administrative Tribunal, Jodhpur.
3. M.L.Bissa, aged 53 years, Assistant, S/o Shri S.K.Bissa, presently working as S.O., Central Administrative Tribunal, Jodhpur.
4. K.C.Goyal aged 43 years, Assistant, S/o Shri R.C.Goyal, presently working as SO, Central Administrative Tribunal, Jodhpur.
5. Ramesan C.V., aged 34 years, S/o Shri P.K.Gopalan Nambiar, presently working as Steno, Central Administrative Tribunal.
6. J.R.Mehta aged 27 years, S/o Shri A.R.Mehta, presently working as Steno, Central Administrative Tribunal, Jodhpur.
7. Virendra Singh, aged 30 years, S/o Shri Bheem Singh, presently working as Steno, Central Administrative Tribunal, Jodhpur.
8. R.K.Jain aged 33 years, S/o Shri K.L.Jain, presently working as H.T., Central Administrative Tribunal, Jodhpur.
9. N.S.Mohnot aged 43 years S/o Shri D.R.Mohnot, presently working as UDC, C.A.T., Jodhpur.



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10. G.D.Birla, aged 42 years, S/o Shri L.D.Birla presently working as UDC, CAT, Jodhpur.
11. D.R.Mehta aged 35 years, S/o Shri K.R.Mehta, presently working as UDC, CAT, Jodhpur.
12. N.K.Dagar aged 27 years, S/o Shri Shanker Lal presently working as UDC, C.A.T., Jodhpur.
13. Smt.Usha G.Nair, aged 35 years W/o Shri G.K.Nair presently working as UDC, C.A.T., Jodhpur.
14. K.K.Dave, aged 43 years, S/o Shri M.L.Dave, presently working as UDC, C.A.T., Jodhpur.
15. D.K.Sharma aged 37 years, S/o Shri Shiv Ram, presently working as Jr.Lib. C.A.T., Jodhpur.
16. L.R.Parihar aged 32 years S/o Shri S.R.Parihar, presently working as L.D.C., C.A.T., Jodhpur.
17. Banshi Lal aged 32 years S/o Shri Khiv Raj.
18. Mahendra Kumar, aged 27 years, S/o Shri Madan Lal.
19. J.C.Mathur, aged 31 years, S/o Shri P.C.Mathur.
20. Mohd.Ramzan aged 24 years, S/o Shri Ahmed Bux.
21. Ganga Ram aged 36 years S/o Shri Deva Ram
22. Amar Singh aged 30 years S/o Shri Ugam Singh.
23. J.C.Singhvi aged 30 years S/o Shri C.C.Singhvi.
24. Arjun Lal AGED #! YEARS, S/o Shri Gulab Chand.
25. Jetha Ram aged 31 years S/o Shakta Ram.

Item Nos.17 to 25 presently working as LDCs in Central Administrative Tribunal, Jodhpur.

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26. Pradeep Jain aged 25 years, S/o Shri J.P.Jain

27. Miss Savita Mathur aged 20 years, D/o Shri S.N.Mathur
Both working as Stenos in C.A.T., Jodhpur.

28. Deepak Singh aged 25 years, S/o Shri Laxman Singh, working as S.L.A., C.A.T., Jodhpur.

29. Narayan Dan aged 26 years, S/o Shri Shakti Dan working as P.C., CAT, Jodhpur.

30. Baboo Giri, aged 27 years, S/o Shri Shaitan Giri working as G.O., C.A.T., Jodhpur.

30A. Ghisoo Khan aged 45 years, S/o Shri Chand Khan

31. Mohan La, aged 54 years S/o Shri Nenu Ram

32. Dinesh Tak aged 20 years S/o Shri Mohan Lal .

Item Nos. 30 to 31 are working as SCD, Central Administrative Tribunal, Jodhpur.

33. Shyam Sunder aged 22 years S/o Shri Mohan Lal working as JLA, C.A.T., Jodhpur.

34. Sunil Mohnot aged 33 years S/o Shri S.S.Mohnot working as UDC, CAT, Jodhpur.

35. Nikka Singh aged 56 years S/o Shri Sinwat Ram

36. Shiv Lal aged 52 years S/o Shri Magna Ram
Both working as Chowkidar, C.A.T., Jodhpur.

37. Ansar Mohd. aged 30 years S/o Shri Ahsan Khan

38. Rajendra Singh aged 31 years S/o Shri Gordhansingh

39. Jabbar Singh aged 30 years S/o Shri Ratan Singh,
Items No. 37, 38 and 39 are working as Daftri, in Central Administrative Tribunal, Jodhpur.

40. Richpal Singh aged 43 years S/o Shri Indersingh working as Jamadar, C.A.T., Jodhpur.

41. Bheemu aged 24 years S/o Shri Mool Chand, working as Mali, C.A.T., Jodhpur.

42. Kumbha Ram aged 28 years S/o Shri Moti Ram

43. Mangilal aged 30 years S/o Shri Kheta Ram

44. Ramesh Nayak aged 35 years S/o Shri Pukh Ram

45. Tej Singh aged 52 years S/o Shri Amar Singh

46. Hari Singh aged 30 years S/o Shri Narain Singh

47. Ramesh Lakhani aged 32 years S/o Shri Chetan Ram

48. Mohd. Talib aged 24 years, S/o Shri Khurshid Ali

49. Ganpat Dan aged 27 years S/o Shri Sira Dan

50. Chandra Bhan aged 33 years S/o Shri Budhi Ram

51. Jethu Singh aged 28 years S/o Shri Ram Chander

52. Chandu Lal aged 31 years S/o Shri Ram Lal

53. Mangi Lal Singh aged 25 years S/o Shri Rawat Singh

54. Liyakat Khan aged 23 years S/o Shri Salawat Khan

55. Mahipal Singh aged 22 years S/o Shri Govind Singh

56. Mishra Ram aged 29 years S/o Shri Sarga Ram

57. Luna Ram aged 29 years S/o Shri Narayan Ram

58. Taga Ram aged 23 years S/o Shri Chatura Ram

Item Nos. 42 to 58 working as Peon; Central Administrative Tribunal, Jodhpur.

59. Ashok Teji aged 27 years S/o Shri Hari Singh

60. Sohan Lal aged 33 years S/o Shri Madan Lal
Item Nos. 59 and 60 are working as Safaiwala
in Central Administrative Tribunal, Jodhpur.

.....APPLICANTS in OA 468/94.

V E R S U S

1. The Union of India through the Secretary, Ministry of Health and Family Welfare, Government of India, New Delhi.
2. The Secretary to the Government of India, Ministry of Finance, Department of Expenditure, North Block, New Delhi.
3. The Registrar, Central Administrative Tribunal (Principal Bench), Faridkot House, New Delhi.
4. The Registrar, Central Administrative Tribunal, 69 Polo First, Jodhpur.

.....RESPONDENTS in OA 468/94.

1. Arid Zone JSA Union through its Joint Secretary Shri Khiv Singh S/o Shri Kan Singh aged 44 years, Field Assistant, Central Arid Zone Research Institute, Jodhpur.
2. Arid Zone Employees Union through its Secretary Shri Ratan Lal S/o Shri Pemaram aged 42 years, Class IV servant, CAZRI, Jodhpur.
3. Shri Ghulam Rasool Abbasi S/o Shri Noor Mohd. aged 55 years, Technical Officer, CAZRI, Jodhpur.
4. Shri Pokar Ram S/o Shri Veeru Ram aged 45 years, Regular Mazdoor, CAZRI, Jodhpur.

.....APPLICANTS in O.A.NO.212/95.

V E R S U S

1. Union of India through the Secretary, Ministry of Health and Family Welfare, New Delhi.
2. Union of India through the Secretary to the

Government, Ministry of Finance, Department of Expenditure, New Delhi.

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3. Indian Council of Agricultural Research, Krishi Bhawan, New Delhi through its Secretary.
4. Director, Central Arid Zone Research Institute, Jodhpur.

.....RESPONDENTS in O.A.No.212/95.

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Mr.N.K.Khandelwal, present for Mr.M.S.Singhvi,Counsel for applicants in O.A.No.468/94.

Mr.Kuldeep Mathur for Mr.Ravi Bhansali,counsel for respondents in O.A.No.468/94.

Mr.Vijay Mehta,Counsel for applicants in O.A.No.212/95.

Mr.V.S.Gurjar,Counsel for respondents No. 1,3 and 4 in O.A.No.212/95.

Mr.Kuldeep Mathur for Mr.Ravi Bhansali,Counsel for respondent No.2 in O.A.No.212/95.

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CORAM :

HON'BLE MR.A.K.MISRA,JUDICIAL MEMBER

HON'BLE MR.GOPAL SINGH,ADMINISTRATIVE MEMBER

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ORDER

PER HON'BLE MR.A.K.MISRA,JUDICIAL MEMBER :

The controversy involved in both these applications' as also the relief sought is same and, therefore, both these applications are being disposed of by this single order.

2. In these applications Government of India, Ministry of Health and Family Welfare O.Ms dated 23.5.94 and 1.6.94 and orders' issued pursuant thereto by the respective respondent departments have been challenged on the ground that they are illegal, unconstitutional, discriminatory. Under these orders first Rupees Twenty Five from each claim would not be reimbursed to the beneficiaries covered under C.S. (M.A.)



Rules, 1944 w.e.f. 1.4.94. The operation of these orders was stayed by this Tribunal's interim direction dated 13.12.94 in O.A.No. 468/94.

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3. In the counter respondents have stated that because of increasing expenditure in providing medical assistance to the Central Government Employees covered under C.S.(M.A.) Rules, it has become necessary to collect some revenue from the C.S. (M.A.) beneficiaries in order to meet non-plan expenditure under the Health Scheme.

4. We have heard the learned counsel for the parties and gone through the records of the cases.

5. Respondents have in their reply furnished elaborate details regarding increasing expenditure, number of employees covered, cost per family over the years in respect of Central Government Health Scheme that has necessitated increase in the Central Government Health Scheme contribution from the beneficiaries of Central Government Health Scheme. But, no basis has been furnished to justify deduction of first Rs.25/- from each claim under C.S.(M.A.),Rules. Thus, the amount of Rs. 25/- has been fixed arbitrarily on the whims and fancies of the respondents. The C.S.(M.A.)Rules, 1944, entitles its beneficiaries free medical treatment. It was never a contributory scheme as Central Government Health Scheme has been, right from the begining. Imposing a cut on each medical claim under C.S. (M.A.) Rules, would be against the C.S. (M.A.) Rules. The phenomenon of increasing expenditure is visible in every activity of the Government and increase in the cost of reimbursement of the medicine is no exception.



6. There is no rational in ordering cut of first 25/- rupees from the medical bills of such employees, therefore, it amounts to an arbitrary order. Moreover, the said deduction would be discriminatory. For instance if a Government servant submits a reimbursement bill for Rs. 100/- he would be liable to get only 75/- whereas if another ^{of the same class} person submits a bill for Rs. 600/- he would get Rs. 575/-. Thus in first case, the percentage of deduction would be 25% whereas in second case it would be little more than 4%. This percentage of deduction would vary according to the amount of the bill sought to be reimbursed. In another case, if an employee submits a bill for reimbursement for four members of his family in a month, the deduction in his case @ Rs. 25/- per bill comes to Rs. 100/- but in case of another employee who presents a single bill for reimbursement in a month then he shall have to suffer a deduction for Rs. 25/- only. These examples can be multiplied. While the said order remains in force each employee would suffer different amount each month on account of such deduction. Moreover, this deduction from the medical bill at the given rate would work-out to different percentage in respect of each bill according to the amount of bill. Thus, this would result into a discriminatory treatment at the hands of the employer in the same organisation, in respect of each employees. This order cannot also be equated with the Central Government Health Scheme. Under the scheme an employee has to contribute fixed amount each month according to the pay/pay scale, irrespective of the expenditure involved in the treatment of an employee or his family members. Thus the order in question is difficult to sustain. The order cannot be left as it is on the ground that this is the policy matter of the

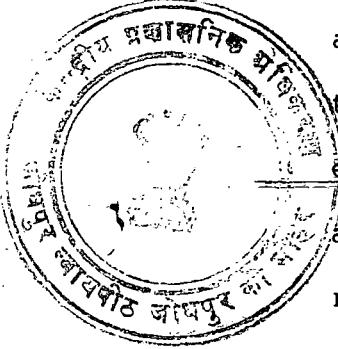
Government. We are conscious that policy matters are not be interfered with. But a policy which is arbitrary, irrational and discriminatory cannot be upheld or left undisturbed has been claimed by the learned advocate for the respondents.

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26

7. It may be mentioned that there are other means to generate the revenue and counter balance the expenditure on account of medical reimbursement. Needless to say that by the impugned order low paid employees would suffer more hardship as compared to others, therefore also, it is difficult to sustain the said order.

8. In view of the above discussions, the impugned orders dated 23.5.94 and 1.6.94, Annexures A/1 and A/2, respectively and all orders passed by the respondents in pursuance thereto, deserve to be quashed and the O.As deserve to be accepted.

9. Therefore, the O.A.No. 468/94 and O.A.No. 212/95 are accepted and the impugned orders Annex.A/1 dated 23.5.94 and Annex.A/2 dated 1.6.94, and follow orders passed by the respondents in pursuance thereto for deduction or recovery of any amount, are hereby quashed. The respondents are directed to regulate the reimbursement of the medical bills of their employees as if these orders were never passed. If any amount was proposed to be recovered the same shall not be recovered. The amount so deducted, if any, in compliance of the said orders from the medical bills of the employees, the same should be refunded but in the circumstances without any interest.



प्रमाणित इही प्रतिलिपि
Sandeep
28/10/94
मनुभाग अधिकारी (न्यायिक)
राज्य प्रशासनिक अधिकरण
जोधपुर

10. Parties are left to bear their own costs.

SD/-

GOPAL SINGH
MEMBER (A)

SD/-

(A.K. MISRA)
MEMBER (J)

Part II

29/9/2007

part II and III destroyed
in my presence on 19/9/2007
under the supervision of
section officer (I - as per
order dated 10/11/2007)

Section officer (Record)

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Copy of order dt 27/9/2007 sent to Colwell
for ref. no 13th order to 340 dt B-10.2000

AP Rec'd and
Placed in
safe

M.M.