

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH : JODMPUR

Date of order : 27.2.1996

OA No. 361/1995

R.C. Singh ... Applicant.

versus

Union of India & Ors. ... Respondents.

Mr. J.K. Kaushik, Counsel for the applicant.

Mr. Sunil Joshi, Brief holder for Mr. J.P. Joshi,
Counsel for the respondents.

CORAM:

Hon'ble Mr. N.K. Verma, Member (A).

Hon'ble Mr. Rattan Prakash, Member (J).

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HON'BLE MR. N.K. VERMA :

In this O.A. the applicant has assailed the order dated 4.9.95 (Annexure A/1), by which the respondents had directed that all medicines may be purchased from Sahkari Bazar from 1.9.95, in regard to reimbursement of medical bills. It was also stipulated therein that if it was not available at Sahakari Bazar, then Non-availability certificate (for short, NAC) may be obtained for further action. The applicant took a preliminary objection that the order passed by the respondents was against the instruction of Government of India, Ministry of Health dated 14.5.85 and had requested the respondents to reconsider their order. However, the respondents had not withdrawn that order and

hence the O.A. The applicant had also prayed for interim orders staying the operation of the impugned order at Annexure A/1, which was granted at the time of filing of this application on 8.9.95. Since the substantial relief in this application had already granted by the interim order passed by a Single Member Bench on 8/9/95 it was decided to dispose of the matter at the stage of admission itself after hearing both the parties.

2. Shri J.K. Kaushik, learned counsel for the applicant brought to our notice the Government of India O.M. dated 14.5.1985 wherein it has been stated that the Central Government Employees can now purchase drugs & medicines from all Chemists & Druggists licenced under the Drugs Cosmetics Act & Rules framed thereunder for the purpose of reimbursement and CS (MA) Rules, 1944. This rule has not been superseded by any other rule issued by the Government of India and the respondent No. 3, who is the Asstt. Director (Entomology) in the Office of the Director of Plant Protection & Quarantine Storage at Bikaner had no authority to issue any order restricting the purchase of medicines only from Sahakari Bazar and in case the same was not available at that Store has to a NAC/be obtained so as to buy from any other Stores.

3. The respondents in their reply have stated that as per the prevalent rules, the controlling officer has to check every claim exceeding a total amount of Rs. 500/- per year very carefully and also

every claim in excess of Rs. 1,000/- is to be scrutinised, besides observing economy on medical reimbursement and they have, therefore, exercised their discretionary powers judiciously on doubts about misuse of medical facilities. In these circumstances, the action of the respondents was in public interest. The Sahakari Bazar is generally attached to the hospital for the purpose of purchasing the medicines and the purchase from this Bazar avoids manipulation and misuse of medical facilities.

3. During the course of arguments, Shri J.K. Kaushik, learned counsel for the applicant reiterated the point that this restriction was detrimental to the interest of the beneficiaries of the Medical Attendance Rules who were now permitted to purchase the medicines from any other Chemists or Druggists. The Sahakari Bazar is not only selling medicines, but it is a kind of departmental Stores with all other items of merchandise sold through it. There cannot be any compulsion from the respondents that the medicines must be purchased from the Sahakari Bazar only so that this can be considered to be a safe vendor of medicines.

4. We have given this matter very serious thought. Admittedly, there is no provision in the Medical Attendance Rules to compel the beneficiaries of Medical Attendance Rules to compulsorily purchase medicines from the Sahakari Bazar alone. However, wherever the controlling officer feels that there can

be misuse of purchase, he has to impose this restriction. Normally, this kind of restriction does not put the applicant to any disadvantage. It has not been brought to our notice that by this restriction he was inconvenienced or discomfited in any manner. It is known that the Sahakari Bazars are the Co-operative ventures of the Government Departments and are fully controlled by the Government in its purchase and sale of items including the drugs and medicines. There are good number of fake drugs and medicines being sold by unauthorised Chemists and Druggists for which there is no adequate check by the local authorities. In such circumstances, if a Central Government Establishment prescribes that the drugs and medicines will be purchased from the more reliable source, that action cannot be faulted on the ground that the same is against the instructions/rules of the Government of India. The controlling officer can canalise the purchase of medicines through more reliable sources provided the beneficiaries are not put to any inconvenience. The Sahakari Bazars are not available at all cities and towns and this restriction of purchasing the medicines from Sahakari Bazars can only be imposed on the urban beneficiaries who stay within the Municipal limits or convenient distance of the city where the Sahakari Bazar is situated.

5. In view of the above, we dispose of this O.A. with the direction that the respondents shall modify this impugned order in accordance with the Government instructions so that each and every beneficiary is not affected adversely by this. The stay order passed earlier is vacated forthwith. No. costs.

Rattan Prakash
(Rattan Prakash)
Member (J)

N.K. Verma
(N.K. VERMA)
Member (A)

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Section Officer (Record)