

**CENTRAL ADMINISTRATIVE TRIBUNAL,  
JODHPUR BENCH, JODHPUR**

**ORIGINAL APPLICATION No.35/2006**

Date of Order: 28-4-2010

**CORAM:**

**HON'BLE JUSTICE Mr. S. M. M. ALAM, JUDICIAL MEMBER**

**HON'BLE Mr. V.K. KAPOOR, ADMINISTRATIVE MEMBER**

Smt. Roop Kanwar Mehta widow of Late Shri C.R. Mehta, aged 75 years, r/o C 76, Shastri Nagar, Jodhpur (Raj.).

....Applicant

**Mr. Manoj Bhandari**, Counsel for applicant.

**VERSUS**

1. The Union of India through the Secretary, Ministry of Finance, North Block, New Delhi.

2. The Income Tax Department through the Chief Commissioners of Income Tax No.1, Aaykar Bhawan, Paota-'C' road, Jodhpur (Raj.).

The Commissioner Income Tax Department No.1, Aaykar Bhawan, Paota 'C' road, Jodhpur (Raj.).

....Respondents.

**Mr. Varun Gupta**, counsel for respondents.



**ORDER**

**(Per Mr. V.K. Kapoor, Administrative Member)**

Smt. Roop Kanwar Mehta has filed present OA on behalf of her late husband Sri C.R. Mehta challenging order dt 21.11.20003 (Ann.A-

1) of respondent 2. She has sought the reliefs that are as follows:-

"(i) by an appropriate order or direction the Income Tax Department may be directed to reimburse the medical expenses incurred to the tune of Rs.1,63,695/- incurred by the applicant for the treatment of her late husband conducted at Goyal Hospital & Research Centre, Jodhpur.

(ii) by an appropriate order or direction the respondents be directed to make payment of interest @ 18% per annum for the amount for the amount from the date same become due till the date of the reimbursement of the payment.

(iii) any other appropriate order or direction that this Hon'ble Tribunal may deem fit, just and proper in the facts and circumstances of the case may kindly be passed in favour of the applicant."

2. The factual matrix of the case is that Sri C.r. Mehta retired as Additional Commissioner of Income Tax on 31.12.1981. He developed

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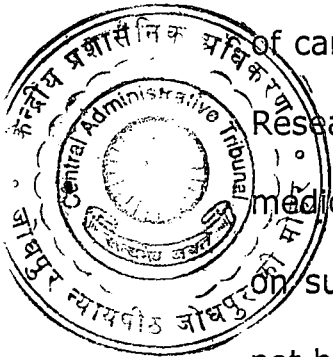
angina/severe chest pain in Dec, 1997; he was taken to Escort Heart Institute & Research Centre, New Delhi; under emergent circumstances, where he had to undergo bypass grafting surgery on 13.01.1998. An amount of Rs.1,77,300/- paid to the Escort Hospital and some extra amount was spent on medicines and traveling; so total amount of Rs.1.90 lac was spent. The representations given by Sri C.R. Mehta were rejected holding that benefit of CS (MA) rules, 1944 on one applicable to the retired person (Ann.A-1). Then an OA no.124/2004 was filed; which was allowed by CAT, Jodhpur on 08 March, 2005. There is no Central Government Health Service dispensary at Jodhpur, the cash medical allowance of Rs.100/- p.m. was allowed to him; a Circular of Government of India, Ministry of Health & Family Welfare, OM no.14025/496-MS dated 05 June, 1998 is enclosed (Ann.A-2). The Tribunal directed that claim made by the applicant be paid to him as per CS (MA) Rules, 1944 (Ann.A-3). Sri C.R. Mehta died on 23.5.2004; during the period of his treatment at Goyal Hospital & Research Centre, Jodhpur an amount of Rs.87,225/- was incurred on various tests and treatment and medicine expenses amounted to Rs.76,470/-. After her husband's death, an amount of Rs.1,63,695/- was claimed by the applicant (Ann.A-4). Later, a circular dt 20 Aug, 22004 was issued, wherein the extension of CS (MA) rules, 1944 to the pensioners residing in CGHS areas is treated as non-feasible in view of huge financial implications (Ann.A-5). On the grounds of residence, no discrimination be made, which is highly arbitrary and unreasonable. The applicant has prayed for reimbursement of medical expenses to the tune of Rs.1,63,695/- at Goyal Hospital & Research Centre, Jodhpur etc.



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3. The respondents in reply have stated that this OA is not maintainable. The benefits of CS (MA) rules, 1944 were not extended in areas not covered by CGHS Scheme. The contents of official memorandum dt 05.6.1998 were misinterpreted at various levels; the Govt of India issued clarification on 20.8.2004 on this subject. He was paid Rs.100/- pm for medical facilities as per rules. The reimbursement can not be made as CS (MA) rules are not extended to the pensioners. The respondents have prayed to dismiss present OA filed by the applicant.


4(a). Learned counsel for applicant in arguments has stated/narrated the factual details. Applicant's husband was having a previous history of cardiac problem; he was admitted a second time in Goyal Hospital & Research Centre, Jodhpur under emergent medical conditions. In all, medical expenses on treatment & medicines were made as Rs.1.63 lac, on submission of these bills, it was replied that CS (MA), 1944 would not be applicable in case of applicant's husband. The similar clarification is given vide order dt 20.8.2004; the applicant was said to be entitled for Rs.100/- pm as medical expenses. This private hospital is a part of Escorts Hospital; as CGHS Scheme is not applicable at Jodhpur; the payment of applicant's medical claims was not accepted. The applicant moved to Tribunal in OA 124/2004, decided on 08.3.2005, applicant's version was accepted. Similar is the case of Pukhraj Gehlot vs. UOI & 04 others in CAT Jodhpur's OA 287/2005 & MA 127/2005, in decision on 20.12.2006, the OA was allowed with direction to reimburse the medical expenses incurred by the applicant for his treatment. The UOI & Ors filed writ petition before High Court, Rajasthan; in DB Civil Writ Petition No.1786/2007, by order dt 30.5.2007 the writ petition was dismissed; reliance was made on 1996(1) SLR 786. The present case resembles to



*UOI & Ors*

the OA 287/2005 discussed above. The Goyal Hosptial & respondent 1, Jodhpur is a recognized hospital, the respondents should not refuse payment of applicant's medical claims. If CGHS Scheme is not existent in this area, the medical claims of the applicant should not be rejected; being altogether discriminatory in nature and contents. Thus, the medical reimbursement claims be paid/made to the applicant.

4(b). Learned counsel for respondents in arguments has stated that CGHS Scheme is not applicable in Jodhpur area, so the rules of CS (MA), 1944 are not applicable here, an amount of Rs.100/- pm is given for treatment. Even if pensioner is admitted in the hospital, this would not be admissible and no amount would be paid in view of Govt of India Ministry of Health & FW instructions dt 05 June, 1998 & 20 Aug, 2004.



Applicant's late husband Sri C.R. Mehta was Additional Commissioner in Income Tax Department, Jodhpur till 31 Dec, 1981. He had a previous history of heart disease, he developed serious angina problem in Dec, 1997, he was treated at Escorts hospital, New Delhi. After that, the condition of Sri C.R. Mehta was better, but expenses incurred on treatment at Escorts hospital, New Delhi amounting to Rs.1.90 lacs were not reimbursed; later rejected vide order dt 21.11.2003. Then Sri C.R. Mehta moved to CAT, Jodhpur in OA no.124/2004, during the proceedings, he died; his legal representatives contested this case. In decision dt 08.3.2005 of this OA 124/2004, applicant's claims were accepted and OA was allowed.

6. The applicant's late husband was residing at Jodhpur, no CGHS dispensary is located here, thus Rs.100/- pm were allowed as medical expenses to Sri C.R. Mehta. There is a circular of Ministry of Health &

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Family Welfare dt 05 June, 1998 that purports to give wider coverage of CS (MA) rules, 1944 to be extended to the pensioners in the areas where no such relief is given. Sri C.R. Mehta lately developed severe heart problem, in critical condition, he was admitted at Goyal Hospital & Research Centre, an amount of Rs.87,225/- was incurred in various tests and treatment; besides Rs.76,470/- was spent on medicines; thus Rs.163,695/- was spent in Goyal Hospital & Research Centre, Jodhpur. The applicant moved representation with medical bills as per Ann.A-4, but it was of no avail. A circular dt 20 Aug, 2004 was quoted that repeats the language of old circular dt 05 June, 1998 that extension of CS (MA) rules, 1944 to the pensioners residing in the CGHS areas is created as non-feasible in view of huge financial implications (Ann.A-5).

Actually, on the ground of residence, no discrimination should be made. At Jodhpur, no medical facility is available under above mentioned scheme, an amount of Rs.100/- is paid to Central employees for treatment. This amount is too meagre for day to day medical expenses.

7. The applicant has quoted the case of Pukh Raj Gehlot vs. UOI & others in CAT, Jodhpur OA 287/2005 & MA 127/2005 in which claims of applicant were allowed on similar footage vide order dt 20 Dec, 2006. This OA was maintained by Rajasthan High Court, Jodhpur vide order dt 30.5.2007. This judgment of High Court is governed by Surjeet Singh Vs. State of Punjab reported in 1996 (1) SLR 786. In the light of deliberations of Tribunal & High Court, Jodhpur there remains no other way, but to support the contentions put forth by the applicant. The late husband of applicant cannot be discriminated merely because the health scheme was not applicable in Jodhpur. Such discrimination is highly arbitrary & unreasonable and cannot be sustained in the eyes of law.

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8. Accordingly, the present OA succeeds. The order of respondents dt 21.11.2003 is set aside. The respondents are directed to scrutinize the claims of Rs.1,63,695/-under CS (MA) rules, 1944 for reimbursement. Copy of this order should be sent by the registry to the Joint Director, CGHS Jaipur for compliance and necessary action. The OA is allowed with no order as to costs.

  
(V.K.Kapoor)

**Administrative Member**

  
(Justice S.M.M. Alam)  
**Judicial Member**

/Rss/



दिनांक 17/2/15 के आदेशानुसार  
मेरी उपस्थिति में दिनांक 10-2-16  
को धारा-II व III पढ़ किया गए।

अनुपम अधिकारी  
केन्द्रीय प्रशासनिक अधिकरण,  
जोधपुर न्यायपीठ, जोधपुर

for  
H. Samra  
for V. Gulati  
30/4/16

second copy  
Yash  
30/4/16