के.प्र.अ. (प्रक्रिया) नियमावली के नियम 22 के अन्तर्गत निः शुल्क प्रति

CENTRAL ADMINISTRATIVE TRIBUNAL,
JODHPUR BENCH, JODHPUR

Original Application Nos. 299/2006, 300/2006, 301/2006, 01/2007, 02/2007, 07/2007, 56/2007, 57/2007, 60/2007 and 61/2007.

Date of Order: ...this the 28th Day of February, 2008

HON'BLE MR. JUSTICE A.K. YOG, MEMBER (J).
HON'BLE MR. TARSEM LAL, MEMBER (A).

1. O.A. No. 299/2006

Smt. Kamla Rani W/o Shri Hem Giri Ji, aged about 51 years at present working as Faras under Central Ground Water Board (in short C.G.W.B.) Jodhpur (Raj.). R/o Chopasani Housing Board, Jodhpur (Raj.).

...Applicant.

VERSUS

1. Union of India through Secretary, Ministry of Water Resources, Shram Shakti Bhawan, New Delhi.
2. Chairman, Central Ground Water Board, N.H. IV, Faridabad Hariyana.
3. Executive Engineer, Central Ground Water Board, Div.-XI, C-8, Saraswati Nagar, Jodhpur.

...Respondents.

COMPARED & CHECKED

CONNECTED WITH:-

2. O.A. No. 300/2006

C.L. Malveya S/o Shri R.C. Malveya Ji, aged about 56 years at present working as UDC under Central Ground Water Board (in short C.G.W.B.) Jodhpur (Raj.) R/o Chopasni Housing Board, Jodhpur (Raj.).

...Applicant.

VERSUS

1. Union of India through Secretary, Ministry of Water Resources, Shram Shakti Bhawan, New Delhi.
2. Chairman, Central Ground Water Board, N.H. IV, Faridabad Hariyana.
3. Executive Engineer, Central Ground Water Board, Div.-XI, C-8, Saraswati Nagar, Jodhpur.

...Respondents.

AND:-

3. O.A. No. 301/2006

Amar Lal Bhati S/o Late Shri Lala Ram Ji, aged about 56 years at present working as O.S. under Central Ground Water Board (in short C.G.W.B.) Jodhpur (Raj.) R/o Opp. Police Choki Nagori Gate, Jodhpur (Raj.).

...Applicant.

VERSUS

1. Union of India through Secretary, Ministry of Water Resources, Shram Shakti Bhawan, New Delhi.
2. Chairman, Central Ground Water Board, N.H. IV, Faridabad Hariyana.
3. Executive Engineer, Central Ground Water Board, Div.-XI, C-8, Saraswati Nagar, Jodhpur.

...Respondents.

AND:-

4. O.A. No. 01/2007

Manohar Lal Chouhan S/o Shri B.L. Chouhan, aged about 39 years at present working as TOD under Central Ground Water Board (in short C.G.W.B.) Jodhpur (Raj.) R/o V.P.O. Binjwadia, Via Tiwari Distt. Jodhpur (Raj.)

...Applicant.

VERSUS

1. Union of India through Secretary, Ministry of Water Resources, Shram Shakti Bhawan, New Delhi.
2. Chairman, Central Ground Water Board, N.H. IV, Faridabad Hariyana.
3. Executive Engineer, Central Ground Water Board, Div.-XI, C-8, Saraswati Nagar, Jodhpur.

...Respondents.

AND:-

5. O.A. No. 02/2007

Bhanwar Lal Bhati S/o Shri Ram Lal, aged about 59 years, Retired as TOD under Central Ground Water Board (in short C.G.W.B.) Jodhpur (Raj.) R/o Polo II, Paota, Jodhpur (Raj.).

...Applicant.

VERSUS

1. Union of India through Secretary, Ministry of Water Resources, Shram Shakti Bhawan, New Delhi.
2. Chairman, Central Ground Water Board, N.H. IV, Faridabad Hariyana.

3. Executive Engineer, Central Ground Water Board, Div.-XI, C-8, Saraswati Nagar, Jodhpur.

...Respondents.

AND:-

6. O.A. No. 07/2007

Arjun Singh Gehlot S/o Shri Ram Lal Ji, aged about 50 years at present working as Junior Engineer under Central Ground Water Board (in short C.G.W.B.) Jodhpur (Raj.) R/o Chaturawaton Ka Bera, Mandore Road, Jodhpur (Raj.).

...Applicant.

VERSUS

1. Union of India through Secretary, Ministry of Water Resources, Shram Shakti Bhawan, New Delhi.
2. Chairman, Central Ground Water Board, N.H. IV, Faridabad Hariyana.
3. Executive Engineer, Central Ground Water Board, Div.-XI, C-8, Saraswati Nagar, Jodhpur.

...Respondents.

AND:-

7. O.A. No. 56/2007

Udai Ram Sharma S/o Shri Ganpat Ram Ji, aged about 62 years at present working retired as a S.T.A. from the office of Central Ground Water Board (in short C.G.W.B.) Jodhpur (Raj.) R/o V.P.O. Bhalki Post Office Kund, Teh. & Distt. Rewari.

...Applicant.

VERSUS

1. Union of India through Secretary, Ministry of Water Resources, Shram Shakti Bhawan, New Delhi.
2. Chairman, Central Ground Water Board, N.H. IV, Faridabad Hariyana.
3. Executive Engineer, Central Ground Water Board, Div.-XI, C-8, Saraswati Nagar, Jodhpur.

...Respondents.

AND:-

8. O.A. No. 57/2007

Sri Kishan S/o Shri Kana Ram Ji, aged about 52 years at present working as Assistant Mechanic under the Central Ground Water Board (in short C.G.W.B.) Jodhpur (Raj.) R/o House No. 99 Prathvi Pura, Rasala Road, Jodhpur (Raj.).

...Applicant.

VERSUS

1. Union of India through Secretary, Ministry of Water Resources, Shram Shakti Bhawan, New Delhi.
2. Chairman, Central Ground Water Board, N.H. IV, Faridabad Hariyana.
3. Executive Engineer, Central Ground Water Board, Div.-XI, C-8, Saraswati Nagar, Jodhpur.

...Respondents.

AND:-

9. O.A. No. 60/2007

Mukesh Sharma S/o Shri Ramswroop Ji, aged about 45 years at present working as Store Keeper under Central Ground Water Board (in short C.G.W.B.) Jodhpur (Raj.) R/o 199, Shanti Priya Nagar, Jodhpur (Raj.).

...Applicant.

VERSUS

1. Union of India through Secretary, Ministry of Water Resources, Shram Shakti Bhawan, New Delhi.
2. Chairman, Central Ground Water Board, N.H. IV, Faridabad Hariyana.
3. Executive Engineer, Central Ground Water Board, Div.-XI, C-8, Saraswati Nagar, Jodhpur.

...Respondents.

AND:-

10. O.A. No. 61/2007

Mukesh Malwia S/o Shri Bhanwar Lal Ji, aged about 47 years, at present working as U.D.C. under Central Ground Water Board (in short C.G.W.B.) Jodhpur (Raj.) R/o K-17 Barkat-ulla Colony, Jodhpur (Raj.).

...Applicant.

VERSUS

1. Union of India through Secretary, Ministry of Water Resources, Shram Shakti Bhawan, New Delhi.
2. Chairman, Central Ground Water Board, N.H. IV, Faridabad Hariyana.
3. Executive Engineer, Central Ground Water Board, Div.-XI, C-8, Saraswati Nagar, Jodhpur.

...Respondents.

SHRI Y.K. SHARMA, ADVOCATE – FOR ALL APPLICANTS.

SHRI M. GODARA, ADVOCATE - PROXY COUNSEL FOR -
SHRI VINIT KUMAR MATHUR, ADVOCATE – FOR ALL RESPONDENTS.

ORDER (Oral)
(Per Justice A.K. Yog, Member (J)

All the above-noted O.As. (listed today), with the consent of the learned counsel for the parties, are clubbed together as well as heard and decided by a common order. Since these O.As. arises from similar facts, raising common issues claiming identical reliefs which can be heard and adjudicated together. For convenience, facts of leading case (O.A. No. 299/2006 - Smt. Kamla Rani vs. Union of India & Ors.) alone are referred.

It may stated that the Applicants have filed these O.As - for two reliefs - (i) to direct the Respondents to make payment of pending Medical Bills and (ii) to allow interest @ 12% p.a. on delayed payments.

At the outset, learned counsel for the respondents submitted that claim made by the applicant and other similarly situated employees have been made and in this respect he referred to the additional affidavit in this case sworn by one Shri B.K. Sharma, Executive Engineer - dated 12.02.2008 (presented in the Registry on 25.02.2008) and along with this affidavit - copy of Office Memorandum dated November 14, 2007 is annexed as Annexure R/1. This Memorandum indicates that all the 10 applicants (in above noted O.As.) have already been paid against 'their Medical-Bills'. The said schedule given in the said Memorandum contains name, designation, descriptive of Original Applications, respective bills and amounts paid in lieu thereof. Learned counsel for the respondents, on the instructions

I/14

received from the official represented in person in the Court today, submits that amount mentioned therein have been paid on 20/22.11.2007. Learned counsel for the respondents on instructions as indicated above further informed that remaining 59 persons (who are not before us today and probably they have not filed O.As.), have also been paid amount of medical claims in January 2008. In these circumstances - main relief claimed in these O.As (re. direction to the respondents to make payment of their 'Medical-Bills') has become redundant.

Consequently, the only issue, which survives for adjudication, is – whether the Applicants are entitled to receive interest on such 'delayed payment of Medical Bills' in question.

Smt. Kamla Rani, the applicant in the leading O.A. (as also other Applicants) was working in the office of Central Ground Water Board, Jodhpur. There is no dispute that these Applicants submitted 'medical bills' (details are not relevant) were submitted by them somewhere during the year 1996- 1998 – as required under relevant rules. Payment of these 'medical- bills' remained pending in spite of their efforts from time to time. In short, the only excuse offered by the Respondents for delay in payment was that they forwarded papers for clearance to higher authorities and that some inquiry was initiated by the Department on some alleged complaint of 'bills' being inflated/forged. Be that as it may, at least since the year 2002 concerned authorities recommended (by writing letters to higher authorities) for making payments of 'Medical-Bills' since the

claimants who were pressing hard for its payment; one of the applicant had even served a legal notice. Above facts are borne out from letter dated 16.01.2002 filed as Annexure A/5 to the earlier O.A. No. 09/2005 - Amar Lal Bhati & Ors. vs. U.O.I. & Ors. (decided on 04.09.2006) and letter dated 22.04.2003 annexure A/2 to O.A. No. 60/2007 – Mukesh Sharma vs. U.O.I. & Ors. (noted above).

Respondents vehemently contested claim of interest contending that 'delay in payment' was not deliberate, it was for good cause and the Department did not act arbitrarily or malafide. It is pointed out that a C.B.I. inquiry was being initiated on complaints regarding fictitious 'Medical-Bills'.

It may be noted that 'payments against Medical-Bills' - were made when this Tribunal passed interim-order dated 01.08.2007 in this O.A.- which reads:

> *"O.A.Nos. 299/2006, 300/2006, 301/2006, 01/2007, 02/2007, 07/2007, 56/2007, 57/2007, 60/2007 and 61/2007.*
>
> *Date of order: 01.08.2007*
>
> *Mr. Y.K. Sharma, counsel for applicant.*
> *Mr. M. Godara, proxy counsel for*
> *Mr. Vinit Mathur, counsel for respondents.*
>
> *In this batch cases the claim of the applicants is for medical reimbursement which had been turned down vide Annexure A/1. In the impugned order there is a reference to earlier order passed by this Bench of the Tribunal in O.A. No. 09/2005 filed by Sh. Amar Lal Bhati & 40 others and O.A. No. 225/2005 filed by Shri Mukesh Sharma & 28 others wherein it was submitted that the medical bills submitted by the applicants were still pending for final decision. The respondents in their reply had stated that some of the employees had raised very high bills and therefore the matter was referred to CBI. This Tribunal after hearing the parties directed the respondents to treat the bill of every employee individually and take a decision. The same is not decided on merits even now.*

I/16

From the perusal of the counter affidavits filed by the respondents in the present cases, it is seen that the respondents are still taking the same plea as the one in the counter affidavit filed in earlier cases, stating that the medical reimbursement claims of the officials in the division were in fact of very high side. The expenditure incurred on medical claims during the year 1995-1996 was 4.89 lakhs and in the year 1996-1997 was Rs. 9.44 lakhs and then the matter was referred to the Ministry of Health for their advice in respect of inflated medical reimbursement claims. <u>According to the respondents the procedure adopted were correct but on fact it appeared to be inflated due to an organized racket. Therefore, the clearance of the bills had been kept in abeyance. The matter was also referred to CBI for investigation.</u> However, we find that the present plea taken in the counter affidavits is also the same which was taken in the reply to the earlier O.A. filed by the applicants. We observe that this Tribunal directed the respondents in the earlier OAs. to take up individual's bill and consider it on merits as per the rules governing in the Reimbursement of Medical Claim. But instead of considering the merits of the bill as per the medical Reimbursement Rules, the respondents had again passed an order which does not specify any reason as to how the claims of the applicants have been turned down. The impugned order states that the competent authority had reconsidered the claim of medical reimbursement sympathetically. We are of the view that sympathy is not required rather the respondents are required to apply their mind and decide the bills on merits as per the Medical Reimbursement Rules.

So <u>we direct now the respondents to file a fresh additional counter affidavits giving the details of each claimant as to whether they are entitled to the reimbursement claim or not as per law.</u> The additional counter affidavits may be filed by the next date. List the case on 22.10.2007 for admission. Let a copy of this order be given to both the learned counsel for the parties.

Sd/- *Sd/-*
Administrative Member *Vice Chairman"*

(underlined to lay emphasis)

Neither the learned counsel for the applicants nor the respondents have referred to particular rule/circular/order of the Department providing or prohibiting grant of interest on delayed payment of medial bills.

Learned counsel for the Applicants, however, argued that

interest accrues in law if 'payment' in question is deliberately delayed, and that since the respondents have admittedly made payments belatedly, therefore, applicants have claimed 'interest' by approaching Court/Tribunal.

Learned counsel for the applicants refers to the record of earlier O.A. Nos. 09/2005 – Amar Lal Bhati & 40 Ors. vs. U.O.I. & Ors. as well as O.A. No. 225/2005 – Mukesh Sharma & 27 Ors. vs. U.O.I. & Ors. filed before this Tribunal – which were requisitioned from the Registry.

Perusal of the aforesaid O.A. Nos. 09/2005 and 225/2005 shows that applicants (including the present applicants before us) had claimed interest @ 12% per annum in the relevant relief clause. The O.A. No. 09/2005 was presented on January 10, 2005.

Learned counsel for the Applicants, however, failed to show that 'interest' was ever claimed by the Applicants prior to filing of aforesaid O.A. No. 09/2005.

There is nothing on record to show that respondents have rejected the said claim of interest. There is nothing to justify the action of the respondents in not considering the said claim or granting interest.

It is proved on record that there are in all about 69 persons involved, whose 'medical claims' varying from Rs.

1,000/- to Rs. 12,000/- have been paid highly belatedly and that there is no good excuse for with-holding payment ever since 2001-2003 (when they decided to make payment).

On the other hand, the applicants for the first time claimed interest in O.A. No. 09/2005 but in the relief clause in O.A No. 09/2005 or in the present O.As – no date has been indicated – from which said interest is claimed. Hence the Applicants are entitled to interest w.e.f. January 2005 only.

Further, what rate of interest should be allowed for computing/calculating such interest, we are of the opinion that rate of interest prescribed on General Provident Fund (G.P.F) Account shall be just and proper.

Original Applications (in respect of relief claimed for payment of medical bills) have been rendered infructuous in view of such payments made during pendency of these O.As.

Original Applications are allowed only to the extent that the respondents are directed to pay requisite amount of interest (after making necessary calculations) on such rate as per criterion given above w.e.f. 01st January, 2005 till actual payment; payment of interest under this order shall be made within within two months of receipt of certified copy of this order.

Further, we clarify that taking into account that similarly situated other persons (like the applicants before us in above

noted O.As.) may or may not have approached this Tribunal for relief shall also be paid against their 'Medical-Bills' and interest as indicated above in order to ensure that the respondents do not discriminate inter se their employees and then force them to approach Tribunal/Court.

Sd/-

[Tarsem Lal]
Member (A)

Sd/-

[A.K. Yog]
Member (J)

kumawat

CERTIFIED TRUE COPY
Dated.....

अनुभाग अधिकारी (न्यायि.)
Section Officer (Judl.)
केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
जोधपुर न्यायपीठ, जोधपुर
Jodhpur Bench, Jodhpur.

R/1084
4/3/08

Part II and III destroyed in my presence on 01/12/14 under the supervision of section officer (1) as per order dated 19/18/14

Section officer (Record)

453