

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR**

Original Application No.216/2010

Date of decision:20.09.2011

Hon'ble Dr. K.B. Suresh, Judicial Member.

Man Singh S/o Late Shri Dhan Singh Ji Rathore, aged about 58 years, R/o village & Post Bhagwansar Via Suratgarh, District Sriganganagar, presently working on the post of FGM in the office of G.E. (Army) Suratgarh, Rajasthan.

: Applicant.

Mr. S.K. Malik, counsel for applicant.

Versus

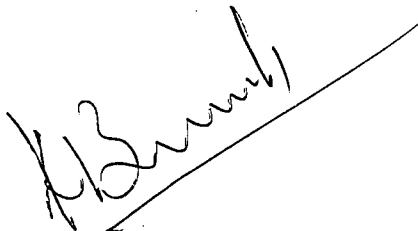
1. The Union of India through the Secretary, Ministry of Defence, Raksha Bhawan, New Delhi.
2. The Garrison Engineer (Army) Suratgarh, District Sriganganagar.
3. The Principal Controller of Defence Accounts, South Western Command (PCDA) [SWC] Khatipura Road, Jaipur (Raj.).

: Respondents.

**Mr. M.S. Godara, proxy counsel for
Mr. Vinit Mathur, counsel for respondents.**

ORDER (ORAL)

Heard both the learned counsels. It would appear that the applicant would claim medical attendance reimbursement but the respondents would say that vide department of Health U.O. dated 15.09.1992, which provides that when the basic condition governing the grant of fixed medical allowance are fulfilled, the question of option would not arise and that no medical reimbursement in addition to FMA would be applicable. The applicant would submit that he is not in receipt of FMA, and a



certificate, which was confirmed by the concerned senior officer vide Annexure-A/2, was issued that he had not been drawing any fixed medical allowance w.e.f. January, 2004, and therefore, the claim is after 2004 and hence the objection is not applicable.

2. The respondents, as directed, has also produced the concerned documents, which made the respondents to state that such facility is not applicable including the Department of Health and Family Welfare, the Circular and it denotes a geographical area of interior, wherein private medical practitioners may not be available, and which postulates the medical, and the District Authority as meaning highest medical authority appointed by the Government in the district, and the period of three years stipulated for reviewing the matter is the maximum period in order to alleviate the difficulties faced in obtaining the required certificates every year, and as soon as the Head of Department feels that medical facilities have become available, the matter could be reviewed. Therefore, in fact what it means is only that FMA is an alleviating factor for non providing medical assistance. Should there be the medical facility available to the concerned FMA is not granted. The applicant would produce the document to prove that similarly situated civilian employees in similar office is being granted the same medial allowance but only the applicant's case, it is rejected by a wrong reading, when earlier accountant had committed an error and for that he is being harassed till now. What is applicable seem to be and what is stated by Central Service

(Medical Attendance) Rules, Government of India's decision No.2,
in this regard, is as follows:-

"(2) To civilian paid from the Defence Service Estimates and their families.- It has been decided to extend the Central Services (Medical Attendance) Rules, 1944 and other connected rules and orders, incorporated in the Compilation of Medical Attendance Rules and Orders, as amended from time to time, for civilians of the Defence Services and their families.

2. (a) The Defence civilians and their families should normally receive medical attendance from the civil hospitals under the civil rules referred to above.

(b) However, in stations where no civil hospital exists they shall be given, free of cost, out-patient treatment in local MI Room/Sick bays/Station sick quarters and Armed Forces Hospitals. In such stations, they may also be admitted to Armed Forces Hospitals under the order of the OC Station in the same way as other non-entitled personnel, provided that accommodation is available. The charges for in-patient treatment will be as laid down in Rule 544, Pay and Allowances Regulations, Vol.II, for the employees and at the rates laid down in Rule 545 *ibid* for the families.

(c) Even in station where a civil hospital exists, they may be admitted to the local Armed Forces Hospital in case accommodation is not available in the civil hospital subject to the following conditions:-

(i) They should produce a certificate from the civil hospital that accommodation is not available and that the admission of the patient cannot be delayed without danger to his/her health until accommodation becomes available.

(ii) The admission will be regulated in the same manner and subject to the same conditions as for any other non-entitled personnel.

(iii) No special nursing will be provided.

(iv) Hospital stoppage shall be recovered at the same rates as those mentioned in Para.2 (b) above.

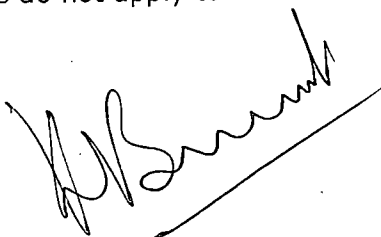
3. When admitted to Armed Forces Hospital under the provisions of Para.2 above, they will be entitled to receive treatment only to the extent facilities are available from the service sources at the station. Hospital charges/stoppages will be recovered by Armed Forces Hospital directed from Government servants, who in turn will claim reimbursement from the Government as admissible under the CS (MA) Rules.

Note 1.- 20% of the hospital stoppages will be reckoned as diet charges for the purpose of reimbursement under CS (MA) Rules, 1944, as amended from time to time.

Note 2.- Medical Officer's fees laid down in Rule 545, Pay and Allowances Regulations, if recovered, is also reimbursable under the CS (MA) Rules, 1944, as amended from time to time.

4. The expenditure involved in reimbursement of medical claims is debitable to the Head to which pay and allowances of the individuals concerned are debited.

5. These orders do not apply to-



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(i) industrial personnel with continuous service of less than one year and their families;

(ii) The employees of Ordnance/Clothing Factories and associated TD Establishments as well as the Naval Armament Inspection Organization attached to Ordnance Factories/TDEs [see Decision (4) below];

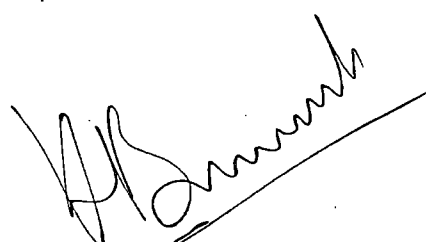
(iii) IN/IAF civilian personnel attached to TDEs associated with Ordnance Factories; and

(iv) The Defence civilians having their headquarters in Delhi and New Delhi who are entitled to medical benefits under the Central Government Health Scheme.

All these personnel will continue to be governed by the rules which have so far been applicable to them.

Clarification.- It is clarified that the Medical Officers/Senior Medical Officers of the Defence Installations which are located at long distance from the Civil Hospitals will also be regarded as AMAs., for civilian employees of the Units and the member of their families."

3. Therefore, since the Ministry of Defence itself had viewed it this way then there is no reason for the Accountant Wing to find focus on one portion alone of the Health Department's Circular. The learned counsel for the respondents places before me a certificate issued by office of the Chief Medical and Health Officer, Sriganganagar (Rajasthan) bearing No.15741 dated 17.07.2008, to indicate that there is no State Government/Local body Hospital Dispensary within a radius of 5 KMs from GE (Army) Suratgarh Mil Stn, and also there is no qualified private hospital/practitioner available and if available, he is not willing to be appointed as authorize medical attendant. This will not have reliance at all since the FMA is meant in a situation where medical facility is not available and thus as a palliative measure. But it cannot support medical attendance, which is available to all employees and applicant is not in receipt of the same also.



4. In this case, since the Ministry of Defence has already decided and quoted the above, therefore, there is no ground to hold that Annexure-A/1 will stand the test of law and it is therefore, quashed. The respondents are directed to calculate and compute all the reimbursement amounts, which are pending, and release/pay the same to the applicant within two months next. The O.A. is allowed. No order as to costs.


[Dr. K.B. Suresh]
Judicial Member

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