

CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH

O.A.No.242/04

Thursday this the 25th day of November 2004

C O R A M :

HON'BLE MR. A.V.HARIDASAN, VICE CHAIRMAN

V.Raghavan Nambiar,  
Superintendent of Central Excise (Rtd.),  
Sivaramapuram, Florican Road,  
Calicut - 673 020.

Applicant

(By Advocate Mr.C.S.G.Nair)

Versus

1. Union of India represented by  
the Secretary, Department of Revenue,  
North Block, New Delhi - 110 001.

2. The Secretary,  
Ministry of Health & Family Welfare,  
Nirman Bhavan, New Delhi.

3. The Commissioner of Central Excise & Customs,  
Central Excise Bhavan, Press Club Road,  
Trivandrum - 1.

4. The Deputy Commissioner of  
Central Excise & Customs  
Trivandrum Division,  
Central Excise Bhavan,  
Press Club Road, Trivandrum - 1.

Respondents

(By Advocate Mr.T.P.M.Ibrahim Khan, SCGSC)

This application having been heard on 25th November 2004  
the Tribunal on the same day delivered the following :

O R D E R

HON'BLE MR. A.V.HARIDASAN, VICE CHAIRMAN

The applicant is a retired Superintendent of Customs. He is residing in Calicut where CGHS facility is not available. On 14.11.2003 he fell ill badly and was in an emergent condition admitted to the Nirmala Hospital, Calicut. He was treated there and was discharged on 20.11.2003. An amount of Rs.23,443.42 was paid as expenses of the treatment. In terms of the O.M.No.S 14025/4/96 - MS dated 5.6.1998 regarding extension of CS(MA) Rules 1944 to pensioners residing in area not covered by CGHS the

parent department of the applicant is bound to reimburse the medical claim. The applicant inviting attention of the 4th respondent to the above said O.M. submitted his claim along with covered letter (Annexure A-3). The claim was rejected by the 4th respondent by Annexure A-4 order dated 12.3.2004 stating that as per the existing Rules the medical claim filed by the applicant was not acceptable. Aggrieved the applicant has filed this application seeking a direction to the respondents to reimburse the medical claim in terms of Annexure A-3.

2. Although the matter was required to be disposed of at the earliest and the respondents were given sufficient opportunity to file a reply statement, no reply statement was filed. Finally by order dated 11.10.2004 a last opportunity was given to file a reply statement on the condition that respondents pay costs of Rs.500/- (Rupees Five Hundred Only) to the applicant making it clearly understood that if cost is not paid and reply statement is filed within the said period the right of the respondents to file a reply statement would stand forfeited. In spite of that the respondents did not file any reply statement and therefore the matter has come before me for final hearing today.

3. Shri.T.P.M.Ibrahim Khan,SCGSC appeared for the respondents. I have heard Shri. C.S.G.Nair learned counsel of the applicant and Shri.T.P.M.Ibrahim Khan,SCGSC learned counsel for the respondents. The claim is opposed on the ground that there is no rules extending the benefits of CS(MA) Rules to pensioners residing in area where CGHS facility is not available. The question whether the benefits of medical reimbursement is available to pensioners residing outside the area where CGHS

facility is available has come up for consideration before the Tribunal in a large number of cases earlier. A similar case O.A.250/03 was decided by this Bench of the Tribunal on 16.7.2003. The respondents contended that the benefits of medical reimbursement is not available to pensioners residing outside CGHS covered area as there is no rules in that regard was rejected by the Tribunal. The Tribunal observes in paragraphs 3-4 of the judgement as follows :

3. I have gone through the pleadings and materials placed on record and have heard the learned counsel of the applicant as also the counsel of the respondents. The identical issue as in this case as to whether in the absence of finalisation of modalities the benefit of hospitalization expenses can be extended to the pensioners residing outside CGHS area was considered by the Madras Bench of the C.A.T. in R.Rangarajan Vs. Union of India in O.A.No.194/01 as also by Ahmedabad Bench of the Tribunal in O.A.No.216/01, in Sri.Ratanchand T Shah Vs. Union of India & Ors. The identical contentions of the respondents as raised in this case were rejected and the respondents were directed to make available to the applicants the amount as admissible as per rules irrespective of the fact that the modalities for implementation had not been finally stated by the Government. The above rulings of the Madras Bench and Ahmedabad Bench of the Tribunal have become final and these orders are in confirmity with the principles laid down by the Apex Court in D.S.Nakora & Others Vs. Union of India that the pensioners who fall within a uniform group cannot be discriminated for award of the liberalised pension scheme on the basis of dates of retirement. In State of Punjab Vs. Mohindar Singh Chawla (AIR 1997 1225) the Apex Court observed as follows :

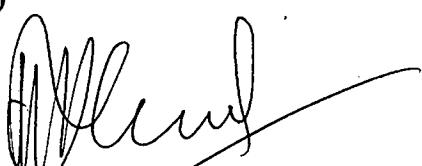
" It is settled law that right to health is an integral right to life. Government has constitutional obligation to provide the health facilities. It is but the duty of the State to bear the expenditure incurred by Government servant. Expenditure thus incurred required to be reimbursed by the State to the employee. Having had the constitutional obligation to bear the expenses for the Government servant while in service or after retirement from service as per policy of the Government, the Government is required to fulfil the constitutional obligation. Necessarily the state has to bear the expenses incurred in that behalf (Para 4 and 5)".

*[Handwritten signature/initials over the bottom left corner]*

4. In the light of what is stated above, I find that the contention of the respondents regarding eligibility of the applicant for reimbursement is only to be rejected. In the result the application is allowed in part. The respondents 4 & 5 are directed to look into the claims of the applicant submitted along with Annexure A-4 and to reimburse the medical expenses to the extent as admissible as per rules and the packages. The above direction shall be complied with as early as possible at any rate within a period of two months from the date of receipt of a copy of this order. No order as to costs.

4. The issue involved in this case is identical and therefore this application ought to be disposed of in tune with the decision taken in O.A.250/03. In the result following the ruling in O.A.250/03 I find that the applicant is entitled to the reliefs sought in this application. The application is, therefore, allowed in part. The 4th respondent is directed to process the claim of the applicant for medical reimbursement and to make available to the applicant the reimbursement of the medical expenses incurred by him for his treatment in the light of Annexure A-2 order to the extent as admissible as per scales for the treatment undergone by the applicant. The above direction shall be complied and payment made to the applicant as expeditiously as possible at any rate within a period of one month from the date of receipt of a copy of this order. No order as to costs.

(Dated the 25th day of November 2004)



A.V. HARIDASAN  
VICE CHAIRMAN

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