

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.250/03

Wednesday this the 16th day of July, 2003

C O R A M :

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

R.Sreekantan Nair,
Assistant Commissioner of Income Tax (Rtd.)
Shanti Sree, Chakola Colony,
Perumanoor, Cochin - 682 015.

Applicant

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

Versus

1. Union of India,
Represented by the Secretary,
Ministry of Personnel,
Public Grievances & Pension,
New Delhi.
2. The Secretary,
Ministry of Health & Family
Welfare, Nirman Bhavan,
New Delhi.
3. The Chairman,
Central Board of Direct Taxes,
North Block, New Delhi.
4. The Chief Commissioner of Income Tax
Central Revenue Buildings,
I.S.Press Road,
Cochin - 682 018
5. The Commissioner of Income Tax,
Central Revenue Buildings,
I.S.Press Road,
Cochin - 682 018.

Respondents

(By advocate Mr.M.R.Suresh,ACGSC)

The application having been heard on 16th July, 2003 the Tribunal on the same day delivered the following :

O R D E R

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

The applicant retired from service on superannuation as Assistant Commissioner of Income Tax on 31.5.1988. Incidentally he happens to be the President of the Central Government Pensioners' Association, Ernakulam and he had filed in that capacity O.A.No.344/2000 for an order to the sanction of a Central

Government Health Scheme (CGHS) Dispensary at Cochin. There is no CGHS facility in Cochin at present. The O.A. was disposed of by this Tribunal by an order dated 31.5.01 as Cochin is not covered by CGHS. The applicant is in receipt of the monthly Medical Allowance of Rs.100/-. While so, on 21.10.01 the applicant had to suddenly rushed to Krishna Hospital, Chittoor Road, Ernakulam on account of a heart attack as is seen from Annexure A-1. The Krishna Hospital referred the applicant for treatment to the Amrita Institute of Medical Sciences & Research Centre (AIMS), where he was admitted and treated. He was discharged on 9.11.01. Since the second respondent had by O.M.No.S - 14025/4/96 - MS dated 5.6.98 issued direction for extension of CS(MA) Rules 1944 to pensioners residing in area not covered by CGHS, accepting the recommendation of the 5th Central Pay Commission in that regard, the applicant submitted his claim for reimbursement of the medical expenses along with a letter Annexure A-4. He was informed by the fourth respondent by Annexure A-5 that the matter has been referred to the third respondent but thereafter he did not get any response. Therefore, he submitted a reminder on 2.12.02 (Annexure A-6) but without any result. Under these circumstances the applicant has filed this application for a direction to the fourth and fifth respondents to reimburse the medical claim submitted along with Annexure A-4. It is alleged in the application that the Madras Bench of C.A.T. in Mr.R.Rangarajan Vs. Department of Telecommunication in O.A.No.194/01 rejected the contention of the department that for not finalising the modalities in terms of O.M. dated 5.6.98 it was not possible to extend the benefit to the pensioners residing outside the CGHS area, which has been

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followed by Ahmedabad Bench's order dated 21.10.02 and directed the reimbursement of the medical expenses as per rule and that the inaction on the part of the respondent in reimbursing the claim of the applicant is wholly unjustified.

2. The respondent in their reply statement state that although the Government has in principle agreed to extend the benefit of hospitalisation expenses to the pensioners residing outside CGHS covered area, the O.M. dated 5.6.98 does not amount to extension of the benefit as modalities have not so far been finalised under this scheme. The respondents therefore contend that the applicant who retired in the year 1988 is not covered by CGHS and is paid monthly an amount towards medical expenses in the absence of specific order extending the benefit of hospitalisation for his hospitalisation expenses cannot be reimbursed and that he is not entitled to the reliefs sought. They further contend that even if the benefit would be available, it would be restricted to the package in terms of Annexure R-2.

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 hospitalisation 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

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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 comfirmity 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) ".

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

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of a copy of this order. No order as to costs.

(Dated the 16th day of July, 2003)



A.V. HARIDASAN
VICE CHAIRMAN

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