

**CENTRAL ADMINISTRATIVE TRIBUNAL LUCKNOW BENCH
LUCKNOW**

Original Application NO: 340/2007.

This, the 4th day of March 2008.

HON'BLE MR. M. KANTHAIAH, MEMBER (J)

Amit Kumar Singh aged about 31 years, Son of Sri Yogendra Pal Singh, resident of C-1 Staff Quarter, Kendriya Vidyalaya, Air Force Station, Memaura, Lucknow, Present posted as Trained Graduate Teacher, Kendriya Vidyalaya, Air Force Station, Memaura, Lucknow.

Applicant.

By Advocate: Sri P. K. Srivastava.

Versus

1. Commissioner, Kendriya Vidyalaya Sangathan, 18-Institutional Area, Shahid Jeet Singh Marg, New Delhi.
2. Education Officer, Kendriya Vidyalaya Sangathan, 18 Institutional Area, Shahid Jeet Singh Marg, New Delhi.
3. Assistant Commissioner, Kendriya Vidyalaya Sangathan, Regional Officer, Gyan Deep K.V. Campus, Sector-30, Gandhi Nagar, Gujrat.
4. Education Officer and Regional Grievance Officer, Kendriya Vidyalaya Sangathan, Regional Officer, Gyan Deep K.V. Campus, Sector 30 Gandhi Nagar, Gujrat.
5. Principal, Kendriya Vidyalaya Air Force Station, Bhuj, Gujarat.
6. Principal, Kendriya Vidyalaya Air Force Station, Memaura, Lucknow.

Respondents.

By Advocate Sri Surendran P.

Order

By Hon'ble Mr. M. Kanthaiah, Member(J)

The applicant has filed original application to quash the order-dated 27.10.2005 (Annexure-1) and order dated 2/3rd March 2006 (Annexure 2) under which the respondents have rejected the

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- 2 -

claim of the applicant for reimbursement of medical claim incurred by him for treatment of his mother who was suffering from cancer.

2. The respondents have filed counter affidavit denying the claim of the applicant stating that the rejection orders are reasoned and no justified grounds are there for interference of the same by the Tribunal.

3. The applicant has filed rejoinder affidavit denying the stand taken by the respondents and also reiterated his pleas in the original O.A.

4. Heard both sides.

5. The point for consideration is whether the applicant is entitled for the relief as prayed for.

6. Applicant has filed the original application challenging the impugned rejection orders covered under Annexure 1 and Annexure 2 on the ground that the same is illegal and bad in the eyes of law and also denied that his father is not at all a pensioner and thus denying of his reimbursement for medical claim incurred on the treatment of his mother is not at all correct. He also further stated that his mother is dependent upon him and she is not earning member and as such he is entitled for re-imbursement of such medical expenditure. Annexure 1 and 2 are the rejection orders.

7. The reasons furnished by the respondents authorities for rejection of the claim of the applicant is that the father of the applicant is drawing pension of Rs. 1500/- and as such mother cannot be declared as dependent upon her son i.e. the applicant

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and another ground that both father and mother (together) can be dependent only if their income is less than 1500/- per month and in support of their contention they relied on Annexure CA-1 page 365 Appendix -17 Medical Attendance Rules and Annexure CA-2 CS (MA) Rules, 1944 page 109

8. The applicant has categorically stated that his father is not a pensioner and he is only an agriculturist. The respondents also not filed any documents to show that the father of the applicant is retired person and getting pension Rs. 1500/- per month. Thus there is no justification in rejecting the claim of the applicant on the ground that the father of the applicant has been getting Rs. 1500/- per month as pension.

9. The learned counsel for the respondents mainly relied on Annexure A-9 dated 3.10.2005 representation of the applicant in which he categorically admitted in respect of the income of his father as Rs. 1500 per month and as such his mother cannot be treated as dependent on her son. No doubt the recitals of representation of the applicant shows that his father was getting income of Rs. 1500 per month whereas mother and sisters are not getting any income and further getting such income by father does not preclude her mother to be treated as dependent on her son.

No doubt as per Medical Attendance rules covered under Annexure CA-2 shows definition of "family of the

Government servant's wife or husband, as the case may be, and parents, sisters, widowed sisters, widowed daughters, minor brothers, children and step-children wholly dependent upon the Government servant.

By way of Note-I, it also stated that the family is treated as dependant only if his/her income from all sources including

-4-

pension and pension equivalent of gratuity does not exceed Rs. 1500 p.m. The condition of dependency both in the case of the husband or wife of the Government servant has been dispensed with..”

10. The contention of the respondents is that when the father of the applicant was getting Rs. 1500/- per month as income, his mother will not be treated as dependent on her son and because of such income of Rs. 1500/- earned by his father will disentitled his mother for claiming any medical reimbursement for the expenditure incurred to his mother by the Government employee . No doubt the applicant himself admitted that his father was getting Rs. 1500/- per month as his income and he also stated that his mother and other sisters are not getting any income and they are dependent upon him. The Medical Attendance Rules clearly shows that a member of the family treated as dependent only if his/her income from all sources is less than Rs. 1500/- per month. In the instant case, the mother of the applicant who is not getting any income, shall be treated as dependent of her son and her husband getting a monthly income of Rs. 1500 does not preclude her to be treated as dependent on her son and as such, the rejection of the claim of the applicant that his father getting income of Rs. 1500 per month shall be treated as dependent on his father is not at all correct and tenable.

11. When the medical rules are clear in respect of getting of such income , by the members of the family of Government servant who will come within the definition of the family shall be treated as dependent of the Government servant's , if such member income is less than 1500/- per moth. In the instant case, the mother of the

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applicant is not at all getting any income and getting income of Rs. 1500/- per month by his father will be treated as dependent on her husband but not on the applicant is not at all sound and sustainable. Thus the rejection of the claim of the applicant is not at all sustainable and as such, the applicant is justified in challenging the impugned order covered under Annexure 1 and 2.

11. In the result, O.A. is allowed quashing the impugned rejection order covered under Annexure A-1 and A-2 rejecting the claim of the applicant for reimbursement of medical expenditure incurred by him for the treatment of his mother and also directed the respondents to allow such claim of the applicant basing on the medical bills submitted by him as per rules. No costs.


(M. Kanthaiah)

Member (J)

04.03.2008

v.