

CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW BENCH, LUCKNOW

Original Application No.360/2009

This the 28 Day of March 2011

Hon'ble Mr. Justice Alok Kumar Singh, Member (J)

Hon'ble Mr. S.P. Singh, Member (A)

1. S.L. Srivastava, aged about 68 years, son of Late Sri Jaganath Prasad Srivastava, r/o House No.5/466, Vikas Nagar, Lucknow.
2. Onkar Nath Srivastava, aged about 71 years, son of Late Ram Chander, r/o House No.B-2434, Indira Nagar, Lucknow.

...Applicant.

By Advocate: Sri P.S. Bajpai.

Versus.

1. Union of India through the Secretary, Ministry of Telecommunication, New Delhi.
2. The Director General, Health Scheme, New Delhi.
3. The Director (Estt.), Ministry of Communication & IT Department of Telecommunication.
4. Central Government Health Scheme Office, Maharanan Pratap Marg, Sikandar Bagh in front of Botanical Garden Lucknow through its Director.

.... Respondents.

By Advocate: Sri K.K. Shukla for Respondent No. 1 and 3.

Sri Deepak Shukla for Respondent No. 2 and 4.

ORDER (Reserved)

By Hon'ble Mr. Justice Alok Kumar Singh, Member (J)

This OA has been filed for the following relief's:-

(i). to issue an order or direction in the nature of certiorari quashing the impugned order dated 21.07.2008 passed by the respondent no.3 contained in Annexure No.1 to this Original Application.

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(ii). to issue an order of direction directing the respondents to provide the same medical facilities to the applicants as are being provided to their counter parts having CGHS Card and extend the benefit of CGHS facility to the applicants.

(iii). to issue an order or direction directing the respondents to allow the petitioner to work on the post of clerk in the department.

(iv). to issue any order relief which this Hon'ble Tribunal deems just and proper in the circumstances of the case.

2. The case of applicant no.1 is that he was retired from the post of Assistant General Manager, Lucknow Telecommunication on 28.02.1997 whereas, applicant no.2 retired from the post of Deputy General Manager, U.P. Telecommunication East, Lucknow on 31.05.1995. It is said that prior to their posting at Lucknow both of them were availing the facilities of CGHS. But after their posting at Lucknow, both the applicants were issued P&T Dispensary Cards without assigning any reason, though neither of the applicants ever opted for the facility of P&T Dispensary. It is further said that a person working in the central government is entitled to get the facilities of CGHS even after his retirement and the denial to give them this facility is arbitrary and discriminatory. They have also made several representations for issuances of CGHS Card as well as for reimbursement but without any effect. Therefore, they filed O.A.No.340/2008 before this Tribunal which was disposed of vide order dated 08.02.2008 with a direction to the respondents to dispose of the pending representations as per rules and give a reasoned order (Annexure-5). In compliance of that order the Additional Deputy Director (HQ) passed an order dated 28.04.2008

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saying that as per existing CGHS rules these facilities are not extended to those P&T employees who were not members of CGHS at the time of retirement (Annexure-1). Finally, the Director (Establishment) rejected their claims on 21.07.2008 (Annexure-6). Hence this OA.

3. In the counter reply on behalf of Respondent No. 1, 2 and 4, it has been said that every department has own service conditions. The P&T department has provided the medical facilities to their officials from the P&T Dispensaries, Lucknow. As per the DGHS instructions contained in Dy. No.11958/94/CGHS D-I dated 21.11.1994, CGHS facilities are not extended to the serving as well as retired employees of P&T stationed at Jabalpur, Pune, Jaipur, Lucknow and Ahmadabad because in these stations the P&T Department is not participating in CGHS. Further, as per Ministry of Health & Family Welfare, New Delhi instructions No. S.11011/46-95-CGAHS.II/CGHS (P) dated 01.08.1996 pensioners of P&T department stationed at Lucknow are not eligible for medical facilities at CGHS, Lucknow (Anexure-CR-1). Both these applicants having been retired from Lucknow, they are entitled for out door medical facilities in Post and Telegraph Department, as admissible in accordance with rules. Therefore, the claims of the applicants for getting the indoor facilities of CGHS cannot be extended. The O.M. dated 05.06.1998 issued by Ministry of Health & Family Welfare, New Delhi has been further clarified by issuing another O.M. dated 26.08.2004. Similar, legal controversy had already arisen in certain cases adjudicated by the Central Administrative Tribunal, Madras Bench on account of which O.M. dated 22.05.2008 has been issued. In respect of

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O.A.No.143/2005, it has been clarified that this OA had already been dismissed (AnnexureCR-4). It has been further said that both the applicants have already redressed their grievance by filing an O.A.No.64/2008 which was decided on 08.02.2008 with a direction to dispose of the pending representations. In compliance thereof the respondents had passed a reasoned and speaking order on 21.07.2008 which has been impugned in this OA.

4. Heard the arguments at length and perused the material on record.

5. At the outset, it may be mentioned that the applicants have themselves conceded in para-2 of their OA that though prior to their posting at Lucknow they were availing the facilities of CGHS, but after their posting at Lucknow they were issued P&T Dispensary Cards. In paragraph-4 of the counter reply, it has been clearly mentioned that as per DGHS instructions contained in Dy. No.11958/94-CGHS D-I dated 21.11.1994 CGGHS facilities are not extended to the serving as well as retired employees of P&T stationed at Jabalpur, Pune, Jaipur, Lucknow and Ahmadabad, because in these stations, the P&T Department is not participating in CGHS and also as per Ministry of Health & Family Welfare, New Delhi instruction letter No.11011/46-95/CGAHS.II/CGHS (P) dated 01.08.1996, pensioners of P&T department stationed at Lucknow are not eligible for medical facilities at CGHS Dispensary (Annexure-CR-1). In reply of this para, in the rejoinder affidavit nothing substantial has been said from the side of the applicants. It is also worthwhile to mention that the aforesaid two O.M. have also not been challenged. It goes without saying that every department had own

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service conditions and the P&T department has provided medical facilities to their officials posted at Lucknow from the P&T Dispensary and not from CGHS, Lucknow. This fact has also not been denied. It is not that this arrangement has been made arbitrarily. The reason behind it is that in the aforesaid five stations including Lucknow the P&T department is not participating in the CGHS and on account of this reason the working or retired officials/pensioners of P&T department stationed at Lucknow are not eligible for medical facilities in the CGHS Scheme.

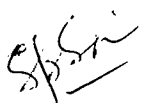
6. It would also be relevant to mention here that earlier these applicants filed an O.A.No.64/2008 which was decided on 08.02.2008 with a direction to dispose of the pending representations. In compliance thereof the representations were examined in view of Ministry of Health & Family Welfare, New Delhi instruction letter No.S.11011/46-95-CGAHS.II/CGHS (P) dated 01.08.1996. This letter says that those P&T pensioners who were members of CGHS Scheme prior to retirement may be allowed to transfer their CGHS Cards from one CGHS covered city to another CGHS covered city but who were not participating in CGHS while in service may not be extended this facility. On account of this reason the representations was rejected and rightly so by means of impugned order (Annexure-2). We do not find any embellishment in the impugned order.

7. The learned counsel for applicants also placed reliance on one of the judgment of this Tribunal dated 15.09.2008 passed in O.A.No.143/2005. The applicants have made a mention about this order of Tribunal very briefly for the first time in their rejoinder

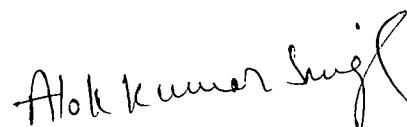
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affidavit. But even a copy of that order dated 15.09.2008 has not been filed either with the OA or with the rejoinder affidavit. However, respondent no.1, 2 and 4 had been fair enough to bring on record the copy of this order as (Annexure-CR-4) alongwith counter affidavit. We have carefully gone through this order. Firstly, as said above this OA was finally dismissed. Secondly, the facts of that case were different from the present case. In that case subject matter was reimbursement of medical claims one and O.M. dated 20.08.2004 was challenged which is not the subject matter of the present case. Thirdly, O.Ms. dated 21.11.1994 and 01.08.1996 which are relevant in the present O.A. as mentioned hereinabove were also not deliberated upon in the above O.A.No.143/2005. Therefore, we are of the view that the applicants cannot derive any benefit on the basis of the aforesaid order passed by this Tribunal in O.A.No.143/2005.

8. In view of the above, this OA deserve to be dismissed and accordingly, it is so ordered. No order as to costs.



(S.P. Singh)
Member (A)



(Justice Alok Kumar Singh) 28.3.11
Member (J)

Amit/-