

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
PATNA BENCH, PATNA.

O.A. No. 569 of 2005

Date of order : 21.3.06

C O R A M

Hon'ble Shri Justice P.K. Sinha, Vice-Chairman

Srinivas Sahay, S/o Chandrika Prasad, resident of Mohalla –  
Radio Colony, Adampur, District – Bhagalpur.

....Applicant

By Advocate : G.G. Mishra

Vs.

1. The Union of India through the Secretary , Prasar Bharati Broadcasting Corporation of India, All India Radio, Bhagalpur.
2. The Station Engineer, Broadcasting Corporation of India, All India Radio, Bhagalpur.

..Respondents.

By Advocate : Shri D. Choudhary, J.C to Shri M.K. Mishra,  
Sr. Standing Counsel

O R D E R

By Justice P.K. Sinha, V.C.:-

The applicant is an employee of All India Radio, Bhagalpur, and while working as such, he got his mother admitted and treated at S.G.P.G.D.M.S. Hospital, Lucknow where she also underwent surgery, at the total cost of Rs. 70,260/- . The payment of this amount has not been acceded



to, hence this case claiming that the mother was, under the terms of Government Order, depending upon the applicant, though admitting that the father of the applicant was a retired postal employee.

2. The respondents have appeared and filed their written statement, claiming that since the basic pension of the father of the applicant exceeded Rs. 1500/-, under the O.M. 514013/1/74-MC dated 18.9.1976, she could not be treated as dependent upon the applicant under the Central Services (Medical Attendance) Rules.

3. Under the orders of the Tribunal, the applicant filed supplementary application denoting the exact amount which the father of the applicant was getting as pension. The applicant admitted therein that during the period the applicant's mother was so treated, her husband was getting basic pension of Rs. 1534/- and not the sum of Rs. 2539/-, as claimed in the written statement.

4. In this regard, both the sides have argued upon G.I. , M.H., O.M. No. F. 29-113/66-M.A, dated 20.05.1967 ; O.M. No. S. 11011/7/86- CGHS ( P ), dated 04.02.1987 and



O.M. No. S-11012/1/98-CGHS ( P ), dated 14.03.2001.

Under the subject " Dependency", an extract from Swamy's Compilation of Medical Attendance Rules at page 111 and 112 has been made Annexure R/1 to the written statement.

The same is reproduced below:-

**"2. Dependency:-** ( a ) It has been decided that the following criterion should be adopted for deciding whether parents may be deemed to be "wholly dependent/mainly dependent" upon the Government servant for purposes of eligibility to the concessions under the CS (MA) Rules, 1944 and orders issued thereunder, and the CGHS, respectively.

Such parents, sisters, widowed sisters, widowed daughters, brothers children, divorced / separated daughters and stepmother and stepchildren should be regarded as " wholly/mainly dependent" upon Government servant who normally reside with the Government servant concerned and their income from all sources including pension and pension equivalent of DCRG benefit and exclusive of the relief on pension sanctioned after December, 1995 is less than Rs. 1500/- p.m.

**EXPLANATION:-** ( i ) The declaration regarding the income and the residence of parents should be furnished by the Government servant concerned once in the beginning of every calendar year.

( ii ) Lump sum non-recurring income e.g., Contributory Provident Fund Benefits,



Government of India Prize Bonds, Gratuity, Commuted Gratuity, Insurance Benefits, etc. should not be regarded as 'income' for the purpose of this Rules. Recurring monthly income from sources such as houses landholding, etc etc., should, however, be taken into account for the purpose of assessing income.

These orders also apply to Central Government employees stationed or passing through Kolkata. The existing provisions in the CS ( MA) rules, 1944, and orders and the rules relating to the CGHS may be deemed to have been amended accordingly."

5. The portion above "Explanation" has been contested by both the parties. Quoting that the learned counsel for the applicant has claimed that as per this, the amount of Rs. 1500/- as basic pension would be taken in the context as the basic pension was available in the year 1995, claiming that in the year 1995, the basic pension of father of the applicant was below Rs. 1500/-, which was increased in the year 1996 on implementation of recommendation of 5<sup>th</sup> Pay Revision Commission's Report. On the other hand, the learned counsel for the respondents has submitted that so far the basic pension is concerned, that has got nothing to do with the year 1995, and all that this order says is that the



relief ( D.A Relief) on pension sanctioned after December, 1995 was not to be taken into consideration in computing the monthly basic pension.

6. On a careful consideration of the matter, I am inclined to agree with the submissions of the learned Standing Counsel for the respondents in this regard. This order specifically says –“.....their income from all sources including pension and pension equivalent to DCRG benefits and exclusive of the relief on pension sanctioned after December, 1995 is less than Rs. 1500/- p.m.” (Emphasis added).

7. This order only excludes dearness relief on pension from the consideration, which might have been sanctioned after December, 1995. Excluding that if monthly pension was Rs. 1500/- or above, the parents would not be treated as dependent upon their son. This order does not say anything about the exclusion of enhanced basic pension that might have been granted from time to time, but only of the Dearness relief.

8. Therefore, if on date the applicant claimed that



his mother had received treatment, if his father was getting pension above Rs. 1500/-, that would exclude parents from dependency upon the son.

9. Though this Rule speaks of total income, but in this case, income on pension has been brought on record, hence the matter is being discussed in that context.

10. This also appears to be the interpretation in Swamy's Compilation of Medical Attendance Rules, 28<sup>th</sup> Edition. While discussing G.I., M.H. & F.P., O.M. No. 14013/1/74-MC, dated 18.09.1976 (at pages 110 and 111), the following finds placed in the aforesaid book – "only those parents are regarded as wholly/mainly dependent upon a government servant if they normally reside either with the government servant concerned or with the rest of his family members in case his family members reside at a place other than his duty station and whose total monthly income does not exceed the pay plus dearness pay ( where applicable) of the government servant, subject to the maximum income of the parents being Rs. 250/- p.m. (now less than Rs. 1500/- p.m.)."



11. I am not discussing other aspects of the order in the O.Ms. quoted earlier in this order such as Explanation - ( i ) which states that declaration regarding income and residence of the parent should be furnished by the government servant concerned once in the beginning of every calendar year.

12. The argument that the amount exceeded by only Rs. 34/- will not bring any relief to the applicant. If a cut-off amount is prescribed, that has to be adhered to. If not, then in another case, the applicant may <sup>ask</sup> ~~ask~~ for ignoring further amount of Rs. 50/- and thereafter in yet another case, further amount of Rs. 40/-, and so on.

13. In the aforesaid view of the matter, I do not find that the applicant is entitled to medical reimbursement on account of medical treatment of his mother. This application is, therefore, dismissed, without any order as to the costs.



[P.K. Sinha] V.C.

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