

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

ORIGINAL APPLICATION NO. : 180 of 2000.

Dated this Thursday, the 9th day of November, 2000.

CORAM : Hon'ble Shri B. N. Bahadur, Member (A).

G. L. Satbhai,
(Retd.) U.D.C. (M.E.S.),
489, Ganesh Peth, 1st floor,
Pune - 411 002.

... *Applicant.*

(In person).

VERSUS

1. Additional Director,
C.G.H.S., Mukund Nagar,
Swasth Sadan,
Pune - 411 037.
2. Commander-Works-Engineer,
Mayo Road,
Pune - 411 001.

... *Respondents.*

(By Advocate Shri V.G. Rege for
Respondent No. 1 and Shri R. K.
Shetty for Respondent No. 2).

OPEN COURT ORDER

. PER : Shri B. N. Bahadur, Member (A).

1. The applicant, Shri G. L. Satbhai, retired U.D.C. from M.E.S. is before the Tribunal seeking the relief that the expenditure made for his wife's treatment to the tune of Rs. 3,596/- be held to be reimbursable and directions be issued to Respondents to reimburse the same. He also seeks an amount of Rs. 2,000/- for his two visits to Delhi.

2. The facts of the case are in a short compass, in that the applicant retired w.e.f. 01.10.1997 and when his wife took ill, and was admitted to K.E.M. Hospital, Pune, he bore the expenses.

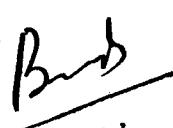
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He also avers that he used the old C.G.H.S. Card, i.e. the C.G.H.S. card he had while in Government employment till 01.10.1997. He had admittedly not applied for a card and states during argument that he did so for the first time on 08.12.1997. The applicant also argues that he had been assured that in case of emergency and genuine need, such as the one obtaining in his case, C.G.H.S. cards were prepared and issued in a matter of hours, and that this was not done by the Government. He has thus been deprived of the amounts spent by the refusal of the respondents to reimburse his claim.

4. Respondent No. 1 has filed a reply resisting the claim of the Applicant and even alleging that he has misused the facility. It is averred that he cannot be said to be eligible for the claim when he was not holding a card and the fact that he is eligible during retirement to the benefits of C.G.H.S. does not mean that he is automatically eligible for such benefits unless he holds a card. It is averred that C.G.H.S. is optional and that normally two weeks time is necessary for preparing a fresh card. During arguments made on behalf of Respondent No. 1, the Learned Counsel reiterated the point made in the written statement, and argued that once the Applicant obtains treatment without a card, no reimbursement was possible. Shri V. G. Rege strongly made a point that non return of the old card at the time of retirement is also a breach of rules. The Learned Counsel for Respondent No. 2, Shri R. K. Shetty, stated that he adopts the arguments as made by Respondent No. 1.

5. The facts of the case are without controversy and simple. It was incumbent, as per rules, for the Applicant to



The success of the case will depend considerably upon the application of the principles mentioned, as set forth, for the stamping of the seal.

have obtained a fresh C.G.H.S. Card as a retired pensioner, which is a separate card from the one which he held as a Central Government employee during service. Assuming that we do not give too much importance to the non return of the old card in view of the fact that the Applicant's wife fell ill within a matter of weeks after retirement, the moot point for consideration is, whether the fact that he did not have a valid card will entitle him to reimbursement. This is the point before us.

6. Legally the answer will have to be in the negative, and it is true that he cannot get benefits of reimbursement when technically he does not hold a card. Thus, by judicial determination it is difficult to accept his claim.

7. I must however note that in the background of the facts of the case, it also emerges that the Applicant has not done anything which is in the nature of malafide action. I do not accept the point made in the written statement of Respondent No. 1 that he has come to the Tribunal with unclean hands or that he was totally misusing the facility of Government of India. The language of the defence is a show of the little over-enthusiasm/hypertechnicality on the part of the Respondents. Be that as it may, the fact also emerges that here was a technical default of not obtaining a fresh card, and of not complying with the requirement of returning the old card. There is some substance in the point made by the applicant, G. L. Satbhai, that at least when the application was made on 08.12.1997, the card should have been issued earlier. Therefore, a lenient



view is possible by the respondents that the intention of obtaining a card starts from 08.12.1997. This will deserve a re-look by the administration.

8. In view of the fact that technically the claim cannot be made through judicial determination, it is not possible for this Tribunal to provide the relief. However, we direct the Respondents to reconsider the matter in the light of the above observations and should they be convinced, on such reconsideration that there is a ground for reconsidering the claim for reimbursement, by giving relaxations, if necessary, they may decide the matter on merit and inform the Applicant. This O.A. may therefore be treated as an Application for this purpose. The Applicant is, however, directed to return the old C.G.H.S. card within a period of three days from today. Since he is present before us, this time limit is considered enough. This card may be returned to the competent authority as per rules. The Respondent should try to dispose of the matter as early as possible.

9. The O.A. is disposed of accordingly. No order as to costs.

B.N.Bahadur

(B.N. BAHADUR)
MEMBER (A).

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