

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
MUMBAI BENCH, MUMBAI.

Original Application No.115/2000.

Dated: 24.04.2000.

S.Sankara Narayanan

Applicant.

Mr.Ramesh Ramamurthy

Advocate for
Applicant.

Versus

Union of India & Ors.

Respondent(s)

Mr.R.R.Shetty.

Advocate for
Respondent(s)

CORAM :

Hon'ble Shri Justice Ashok Agarwal, Chairman.

- (1) To be referred to the Reporter or not? *Yes.*
- (2) Whether it needs to be circulated to other Benches of the Tribunal? *No*
- (3) Library? *Yes.*


(ASHOK AGARWAL)
CHAIRMAN

B.

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<u>Applicant.</u>	<u>S. Sankar Narayanan</u>
<u>Advocate for</u>	<u>Mr. Ramesh Ramamurthy</u>
<u>Applicant.</u>	
<u>Versus</u>	
<u>Respondent(s)</u>	<u>Union of India & Ors.</u>
<u>Advocate for</u>	<u>Mr. R. R. Shetty.</u>
<u>Respondent(s)</u>	

CORAM :

Hon'ble Shri Justice Ashok Agarwal, Chairman.

- (1) To be referred to the Reporter or not?
- (2) Whether it needs to be circulated to other Benches of the Tribunal?
- (3) Library?

(ASHOK AGARWAL)
CHAIRMAN

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION NO.115/2000.

Monday, this the 24th day of April, 2000.

Coram: Hon'ble Shri Justice Ashok Agarwal, Chairman.

S.Sankara Narayanan,
C-2/6/1:3,
Sector - 4,
Vashi,
Navi Mumbai - 400 703.
(By Advocate Mr.Ramesh Ramamurthy)

...Applicant.

Vs.

1. Union of India, through
the Secretary,
Department of Atomic Energy,
Anushakti Bhavan,
Apollo Bunder,
Mumbai - 400 001.

2. The Director,
B.A.R.C., Anushakti Nagar,
Trombay,
Mumbai - 400 085.
(By Advocate Mr.R.R.Shetty)

...Respondents.

O R D E R (ORAL)

(Per Shri Justice Ashok Agarwal, Chairman)

Denial of medical facilities by the Department of Atomic Energy, BARC (DAE/BARC) to the applicant is impugned in the present OA. Applicant has been refused the benefit of Contributory Health Service Scheme (CHSS) by the first respondent vide the impugned letter dt. 8.12.1999 at Annexure - A. Respondents 1 and 2 are also seeking to recover an amount of Rs.16,745/- from the applicant for the use of medical facilities by him.

2. Applicant had joined the Department of Atomic Energy in BARC w.e.f. 19.5.1988. He worked as an UDC in the Accounts

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Division in BARC. In response to an advertisement appearing in the Newspaper for the post of Administrative Officer (Accounts) in the Inter University Consortium for Department of Atomic Energy Facilities (IUC - DAEF) Centre at Mumbai, applicant forwarded his application and after selection was appointed as Administrative Officer (Accounts) at the IUC - DAEF w.e.f. 5.6.1998. Applicant, after he was so appointed and absorbed with IUC - DAEF has availed of certain medical facilities. During the period 21st August, 1998 and 3rd December, 1998 applicant availed of medical facilities ^{for treatment} during the pregnancy of his wife. The medical facilities was to the tune of Rs.16,745/-. According to the applicant, he has been in the service of the respondents during the period 1988 to 1998 i.e. for over a period of 10 years. He is accordingly entitled to medical facilities made available to retired employees of DAE/BARC.

3. Medical facilities are made available to the retired employees of DAE/BARC under a scheme known as CHSS. Under para 2.1.10 page 24, this is what has been provided :

"Retired employees of the Department who opt for the benefits of the Scheme and members of their families as defined under the Scheme, subject to the following conditions:

(i) Employees should have put in a minimum of five years service in the Department ^{L before} his / her retirement."

4. It is clear that the aforesaid medical benefit is made available to retired employees. Applicant has placed reliance on Rule 37 of CCS (Pension) Rules in order to contend that he is deemed to be a retired employee of DAE/BARC. Rule 37 insofar as is relevant provides as under:

"A Government servant who has been permitted to be absorbed in a service or post in or under a Corporation or Company wholly or substantially owned or controlled by the Central Government or a State Government or in or under a Body controlled or financed by the Central Government or a State Government, shall be deemed to have retired from service from the date of such absorption and subject to sub-rule (3) he shall be eligible to receive retirement benefits if any, from such date as may be determined, in accordance with the orders of the Central Government applicable to him...."

(Emphasis provided)

Based on the aforesaid rule, it is contended by Mr. Ramesh Ramamurthy who has appeared in support of the applicant, that applicant is deemed to be a retired servant. He is accordingly entitled to the medical facilities under the aforesaid scheme.

5. Aforesaid Rule 37, in my judgment, can have no application to the CHSS. Aforesaid Rule 37 ^{provides for} ~~sets~~ a deeming fiction only insofar as retirement benefits are concerned. CHSS is not one of the retirement benefits which are covered by the CCS (Pension) Rules. CHSS is an independent scheme and the same extends medical facilities to retired employees of DAE/BARC.

Aforesaid fiction given by Rule 37 will not, therefore, apply to the aforesaid scheme. The said benefit will be available only to retired employees. The same cannot be extended to erstwhile employees of DAE/BARC whose services have been dis-continued from DAE/BARC and have been absorbed in IUC - DAEF.

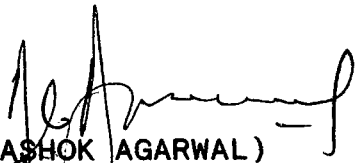
6. Aforesaid medical facilities, it is apparent from the impugned order dt. 8.12.1999 has been extended to one Dr. P. S. Goyal whose services have similarly been absorbed in IUC - DAEF. Be that as it may, merely because the same has been extended by way of a special case to him, the same will not

...4.



detract from my finding viz. that the applicant is not entitled to the same under the aforesaid provisions. In the circumstances, no exception can be ~~drawn~~^{had} to the decision of the respondents denying the medical facilities to the applicant as he is not a retired employee of DAE/BARC.

7. Respondents, are however, seen to have initiated steps to recover an amount of Rs.16,745/- which ~~has~~ been spent towards the medical treatment of applicant's wife during her pregnancy. In my view, the aforesaid recovery would now be unjust and unequitable. In the circumstances, while holding that the applicant is not entitled to the medical facilities, I direct that respondents will not recover the aforesaid amount from the applicant. Present application is accordingly disposed of with the aforesaid directions.


(ASHOK AGARWAL)
CHAIRMAN

B.