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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

O.A.No. 63/97

Date of Order : 19.9.97

BETWEEN:

Smt. P.Surya Kumari

.. Applicant.

AND

1. The Financial Adviser,
Central Board for Workers Education,
North Amboji Road, Near VRC Centre,
Nagpur - 440 010.
2. The Regional Director,
Workers Education Centre,
Bandar Road, Governorpet,
Vijayawada-2.
3. The Chairman, Central Board for
Workers Education Centre,
North Amboji Road, Near VRC Centre,
Nagpur - 440 010.

.. Respondents.

- - -

Counsel for the Applicant

.. Mr.S.Rama Krishna Rao

Counsel for the Respondents

.. Mr.N.R.Devraj

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CORAM:

HON'BLE SHRI R.RANGARAJAN : MEMBER (ADMN.)

~~HON'BLE SHRI B.S. JAI PARAMESHWAR : MEMBER (JUDL.)~~

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J U D G E M E N T

X Oral order as per Hon'ble Shri R.Rangarajan, Member (Admn.) X

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Mr.S.Ramakrishna Rao, learned counsel for the applicant
and Mr.N.R.Devraj, learned standing counsel for the respondents.

2. The applicant in this OA is working as IDC in Workers
Education Centre from 31.8.78. She was transferred from Nagpur
and came back to Vijayawada. It is stated that the applicant
when she was working at Nagpur as IDC for 3 years she claimed
allowances for medical treatment for her children and dependents.

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The husband of the employee is also working in Andhra Bank, Sitarampuram, Vijayawada. It is stated that he is a chronic heart patient and was undergoing medical treatment and he is availing medical facilities.

3. The respondent authorities obtained the details of medical allowances obtained by her husband ^{from} Andhra Bank and came to the conclusion that both are not eligible to get medical advance even though they are working in 2 different organisations namely the applicant in the government organisation ^{at Nagpur} and her husband in the Andhra Bank, a nationalised bank. As the applicant was getting medical advance while she was in Nagpur away from her husband and hence it was decided by the Government (R-1) to recover Rs.9,809/- only from the applicant by the impugned order No. WE/Accounts/9209 as her husband was also reimbursing medical expenses from Andhra Bank, dated 25.4.96 (A-1). The applicant represented her case against the recovery by her representation dated 23.7.96; but that representation was rejected and the recovery of reimbursement was confirmed by the impugned order No. WE/Accounts/Med/SK/96/20596, dated 26.11.96 (A-13).

4. Aggrieved by the above this OA is filed ^{to} set aside the impugned order No. WE/Accounts/9209, dated 25.4.96 as confirmed by letter No. WE/Accounts/Med/SK/96/20596, dated 26.11.96 by holding them as arbitrary, illegal and unwarranted and is against the rules of C.S. (MA) 1944 and in violation of Article 14 and 16 of Constitution of India and for a consequential direction to the respondents to refund the recovery already made with effect from the salary for the month of August 1996 towards medical reimbursement availed by the applicant for the period from July 1994 to September 1995 which is now sought to be recovered.

5. An interim order was passed in this OA on 20.1.97. In the interim order it is stated that so far 4 instalments have been recovered amounting to Rs.4,000/- and one more instalment will be deducted from salary for the month of December 1996. ~~pending for further orders that~~ Pending final disposal of this OA further recovery of instalments from the month of January 1997 onwards in pursuance of the order dated 29.8.96 is stayed.

6. The main contention of the applicant in this OA is that she is not receiving the medical reimbursement on behalf of her husband. She is receiving only on her behalf, her children and dependent members with her. This is in accordance with the Chapter-4 Concession for Families under CS (MA) Rules incorporated of in sub-para-d/Rule-1 under that chapter. It is also stated by her that her husband was receiving medical advance due to his heart-ailment, that lumpsum amount was given to him in view of the bipartite agreement reached between the Andhra Bank and the employees of that Bank. Hence that amount cannot be treated as a monthly medical advance received by her husband. Hence the applicant is entitled to get the monthly medical advance under CS (MA) Rules as her husband was getting only a lumpsum amount for treatment of heart attack.

7. The learned counsel for the respondents submitted that the Rule 1(d) referred to above is categorical that both the spouses cannot get medical allowances. One of them only can get. As the applicant herein was getting the medical advance in accordance with the CS (MA) Rules her husband cannot get that advance from Andhra Bank which is one of the Government of India undertakings. As the husband of the applicant ^{was} also getting the advance which has been accepted by the applicant and her husband which ~~is~~ also informed to the Government by the Andhra Bank the recovery made is in accordance with the rules referred to above

Hence the applicant cannot object to the recovery being made which is as per established rules.

8. The point for consideration in this OA is whether in accordance with the rules 1(d) referred to above of the CS (MA) Rules the applicant can get the medical advance when her husband was given the medical advance even if it is a lumpsum one.

9. A letter issued by the Manager, Andhra Bank has been enclosed to the reply as Annexure-3. In this it is stated that her husband had received for the year 1994-95 Rs.1070/- and for the year 1995-96 Rs.1070/-. In addition to that the husband of the applicant was also paid an amount of Rs.4048.90 on 30.11.95 for his heart attack treatment. Thus from the above letter it is clear that the husband of the applicant was not only getting the lumpsum amount for heart attack treatment but he was also getting reimbursement. Hence it cannot be said that the husband of the applicant was only getting the lumpsum amount for the heart ailment on the basis of the certain bipartite agreement. It is evident from the letter referred to above the husband of the applicant was also getting medical expenditure reimbursement. As per the bipartite agreement with all Bank Employees Federation of India the medical expenditure per annum is restricted to Rs.1070/-. Hence the applicant was no doubt getting that Rs.1070/- per annum as medical reimbursement in accordance with the bipartite agreement.

10. Now the question arises whether the applicant can also get the medical advance in accordance with the CS (MA) Rules when her husband is getting Rs.1070/- of advance each year. Both the sides relied on para 1(d) of CS (MA) Rules for advancing their contentions. The learned counsel for the applicant submitted that when the applicant and her husband were working in two different stations namely at Nagpur and Vijayawada the rule 1(d) referred to above permits her to receive the medical advance.

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The learned counsel for the respondents submits that the above statement of the applicant is not correct and that rule permits only one of them to get the medical advance from the Government.

11. In order to analyse that rule it is necessary to re-produce that rule. It is as under:-

"(d) When spouse governed by different medical rules, stationed/residing at different stations:- It has been decided that in the case of Government servants covered under CS (MA) Rules, 1944, and whose spouses are employed in other organisations providing different medical facilities and stationed and residing at different places separately at their respective duty stations, the Government servant concerned can avail medical facilities under CS (MA) Rules, 1944, in respect of himself/herself, as the case may be, and the family members residing with him/her and covered under the rules, provided (a) his/her spouse employed in other organizations is not in receipt of fixed monthly family medical allowance, and (b) he/she produces a certificate from the employer of his/her spouse that he/she is not claiming medical facilities in respect of his/her spouse and their family members."

(G.I.Min. of Health & Family Welfare, O.M.No. S.14025/59/88-MS, dated the 20th December, 1988)

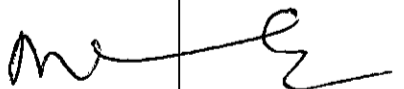
12. From the rule it is evident that one of them can get the medical advance only "if his/her spouse employed in other organizations is not in receipt of fixed monthly family medical advance and he/she produces certificate from the employer of his/her spouse that he/she is not claiming medical facilities in respect of his/her spouse and their family members". The rule has to be read in toto. The learned counsel for the applicant bifurcated the rule into two portions. He relied on the first portion that when the spouses are in different stations both can get the medical advance without

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completely following the rest of the rule portion. In my opinion both the portions are to be read harmoniously. If they are read separately then the whole meaning of the paragraph will be paralised. I have gone through the rule and read in toto and come to the conclusion that only one of them can get the medical advance and not both of them as per the rule quoted. As the husband of the applicant was getting the medical advance which is evident from the letter of the Andhra Bank dated 10.2.96 enclosed as Annexure-3 to the counter the applicant cannot get the medical advance from the Government. Hence the certificate given by her dated 12.12.95 enclosed as Annexure-2 to the counter is not borne out of the facts. It may be stated that this is an incorrect certificate for which she may be taken up for disciplinary action. However, I feel that the applicant has given that certificate dated 12.12.95 probably due to ignorance of the rules. Hence I do not consider it necessary to initiate any disciplinary action for issuing that letter dated 12.12.95. I urge, the respondents not to take any disciplinary action for issue of that letter dated 12.12.95.

13. In the result, the OA is dismissed. No costs.
The interim order already passed stands vacated.



(R. RANGARAJAN)
Member (Adm.)

Dated: 19th September, 1997

(Dictated in Open Court)

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Copy to:-

1. The Financial Adviser, Central Board for Workers Education,
North Amboji Road, Near VRC Centre, Nagpur-
2. The Regional Director, Workers Education Centre, Bandar Road,
Governorpet, Vijayawada-2.
3. The Chairman, Central Board For workers Education Centre, North
Amboji Road, Near VRC Centre, Nagapuru-10.
4. One Copy to Mr. S. Rama krishna Rao , Advocate CAT. HYD.
5. One Copy to Mr. N.R. Devaraj Sr. CGSC. CAT. HYD.
6. One ~~xxx~~Duplicate copy.
7. one copy to the D-R (A).
Upr.

6/10/97
TYPED BY
COMPILED BY

CHECKED BY
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD

THE HON'BLE SHRI R. RANGARAJAN, : M(A)

AND

THE HON'BLE SHRI B.S. JAI PARAMESHWAR :
M (J)

Dated: 19-9-97

ORDER/JUDGMENT

M.A./R.A./G.A. NO.

in

O.A. NO.

63/97

Admitted and Interim Directions
Issued.

Allowed

Disposed of with Directions

Dismissed

Dismissed as withdrawn

Dismissed for Default.

~~Ordered/Rejected~~

No order as to costs.

YLKR

II Court

