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CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

O.A.NO. 124 of 1998.

DATE OF DECISION... 12-5-1999

Shri Pulak Kumar Biswas

(PETITIONER(S))

In person.

ADVOCATE FOR THE  
PETITIONER(S)

-VERSUS-

Union of India & Ors.

RESPONDENT(S)

Sri B.C.Pathak, Addl.C.G.S.C.

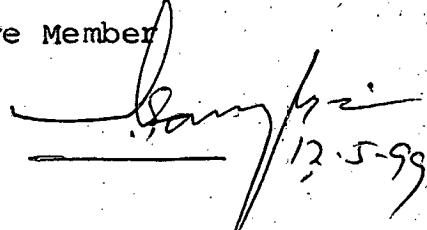
ADVOCATE FOR THE  
RESPONDENTS.

THE HON'BLE SIR G.L.SANGLYINE, ADMINISTRATIVE MEMBER.

THE HON'BLE

- 1. Whether Reporters of local papers may be allowed to see the Judgment ?
- 2. To be referred to the Reporter or not ?
- 3. Whether their Lordships wish to see the fair copy of the judgment ?
- 4. Whether the Judgment is to be circulated to the other Benches ?

Judgment delivered by Hon'ble Administrative Member

  
12.5.99

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 124 of 1998.

Date of Order : This the 12th Day of May, 1999.

Shri G.L.Sanglyine, Administrative Member.

Shri Pulak Kumar Biswas,  
Resident of 76, Umpling,  
Shillong-6,  
Employed as Senior Auditor,  
Office of the L.A.O.(A.F.)  
Shillong.

... Applicant

Applicant appeared in person.

- Versus -

1. Union of India  
represented by the Secretary  
to the Govt. of India,  
Ministry of Defence(Finance),  
Central Secretariat,  
New Delhi.
2. The Controller General of Defence Accounts,  
West Block - V,  
R.K.Puram,  
New Delhi.
3. The Controller of Defence Accounts,  
Udayan Vihar, Narengi,  
Guwahati - 781171.

... Respondents

By Advocate Sri B.C.Pathak, Addl.C.G.S.C.

O R D E R

G.L.SANGLYINE, ADMN. MEMBER,

The applicant is a civilian employee working in the office of L.A.O.(A.F.), Shillong. Prior to the present posting he worked in the office of the P.A.O.(O.Rs).58 G.T.C., Shillong. His wife is an employee of the Meghalaya State Electricity Board, Shillong. She was in receipt of a monthly medical allowance from her employer.

2. During the period from December 1993 and January 1994 he incurred medical expenses for his own treatment in hospital to the extent of Rs.10,132/-. He also claimed for reimbursement of medical expenses for himself and for his minor daughter amounting to Rs.144/- and Rs.113/- respectively. He submitted

bills to the respondents for reimbursement of the amounts of medical expenses mentioned above. The respondent No.3, The Controller of Defence Accounts, Guwahati rejected the claims for reimbursement by his letter dated 2.9.1996 on the ground that "claims are not admissible in audit since the wife of the individual is serving under Meghalaya Government and drawing monthly fixed medical allowance." The matter however did not end there and in December 1997 the respondent No. 3 intimated the applicant through his Advocate that the matter regarding reimbursement of medical claims in respect of spouses of DAD staff serving in different departments and drawing fixed monthly medical allowance was again taken up with the superior authority. On receipt of clarification the medical bills concerned will be dealt with accordingly. The applicant further submitted representation dated 31.1.1998. However, there was no response from the respondents. Thereafter, the applicant has submitted this Original Application. The respondents have contested the application and submitted written statement. The applicant also submitted rejoinder to the written statement. At the time of hearing however, the applicant was not present even after adjournments. Mr B.C.Pathak, learned Addl.C.G.S.C was present. I have heard Mr Pathak and perused the documents submitted by both sides. Mr Pathak supported the written statement of the respondents particularly para 9 thereof.

3. The contention of the respondents is that since the wife of the applicant received monthly medical allowance from her employer the applicant has to claim reimbursement of the aforesaid medical expenses from the employer of his wife. The Central Service (Medical Attendance) Rules, 1944 insofar as it relates to concessions for families were perused. Mr Pathak was unable to support the above contention of the respondents

by any provisions of the rules. In fact, it appears that there is no provision thereunder to support the above mentioned contention of the respondents. My attention has been drawn to the Explanation. Explanation (b) reads asunder :

"(b) When spouse employed in State Government, etc. - The husband or wife of the Government servant, as the case may be, employed in a State Government or in the Defence/Railway Services or Corporation/bodies financed partly or wholly by the Central or the State Government, local bodies, and private organizations, which provide medical services would be entitled to choose either the facilities under the Central Services (Medical Attendance) Rules, or the medical facilities provided by the organization in which he/she is employed."

The provisions of this Explanation enable the spouse of a Central Government employee who is working in State Government or in the Defence/Railway service or Corporation/bodies as mentioned therein to opt either for availing of the facilities under the Central Service (Medical Attendance) Rules, which govern the other spouse (Central Government Employee) or the medical facilities provided by his/her employer. The Explanation does not provide an option for the Central Government employee. Further Explanation (d) is as below :

"(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 organizations 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."

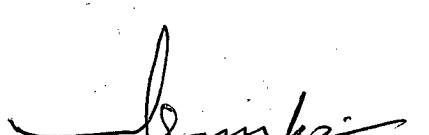
It appears that the provisions of this Explanations are not applicable to the facts of the case of the applicant. It is

true that the applicant and his wife have different medical facilities, but they were not stationed and residing at different places separately at their respective duty stations. Moreover, there is no clear finding by the respondent No.3 in the impugned order to the effect that the monthly medical allowance received by the wife of the applicant is that "fixed monthly family medical allowance" as mentioned in this Explanation. Mr Pathak further referred to the Circular No.AN/III/03/MED/VOL-IV dated 5.8.1997, Annexure R-4, and submitted that in the case of the employees whose spouses are employees of the Government of Assam it was decided that the such employees of the respondents have to submit their claims for medical expenses through the spouses serving in the Government of Assam. He submitted that in the same manner the applicant will have to prefer his claims for reimbursement of medical expenses through his wife who is serving in the Meghalaya State Electricity Board, Shillong. It appears that the respondents have not considered whether the fixed medical allowance of the employees of the Meghalaya State Electricity Board and that of the employees of the Government of Assam are similar. At any rate, the said letter dated 2.9.1996, Annexure-1 to the O.A., does not reveal that the letter dated 5.8.1997 was in the mind of the respondents while rejecting the claim of the applicant.

4. After due consideration I am of the view that in the light of the above the rejection of the claims for reimbursement of medical expenses is not sustainable and therefore the rejection is set aside. The respondent No.3 is directed to consider afresh the claims for reimbursement of the above medical expenses in accordance with rules and law and communicate his order to the applicant within 90 days from the date of receipt of this order. If the prayer

for reimbursement is likely to be rejected, the respondent No.3 shall hear the applicant personally. The applicant may also be allowed to make submission in writing at the time of hearing. The respondents shall thereafter communicate an order containing details and reasons to the applicant within the aforesaid period of 90 days.

Application is disposed of. No order as to costs.

  
( G.L.SANGLYINE ) 12.5.99

ADMINISTRATIVE MEMBER