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CENTRAL ADMINISTRATIVE TRIBUNAL,
JABALPUR BENCH,
JA BALPUR

Original Application No. 472 of 2005

Jabalpur, this the 14th day of September, 2006.

Hon'ble Dr.G.C.Srivastava, Vice Chairman
Hon'ble Shri A.K.Gaur, Judicial Member

Sadashiv Gopal Chiplunkar S/o late Shri Gopal Rao Chiplunkar, aged about 68 years (Retired as Divisional Accounts Officer Grade-I from Accountant General, Madhya Pradesh Office) R/0 C-14/7, (MIG) Rishinagar, Ujjain (MP)

-Applicant

(By Advocate – Shri Girish Patwardhan)

VERSUS

1. Union of India through Secretary (Pension) Government of India, Ministry of Personnel Public Grievances and Pension, Department of Pension and Pensioners Welfare, New Delhi.

2. Comptroller and Auditor General of India, Bahadur Shah Jafar Marg, Indraprastha Head Post Office, New Delhi.

3. Accountant General-I, Madhya Pradesh, Gwalior (MP).

4. Senior Deputy Accountant General (Accounts), Madhya Pradesh, 53, Arera Hills, Bhopal (MP)

-Respondents

(By Advocate – Shri P.Shankaran)

ORDER

By Dr.G.C.Srivastava, VC.-

This OA has been filed by the applicant, who retired as Divisional Accounts Officer, Grade-I from the office of the Accountant General Madhya Pradesh, against the order dated

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29.4.2005 (annexure A/1) through which he has been informed that he was ineligible to get reimbursement of medical expenses under the Central Services (Medical Attendance) Rules [hereinafter referred to as 'the CS(MA)Rules']. The applicant has prayed for the following main reliefs:-

"i) quash/set aside the impugned order dated 29.4.2005 (annexure A/1) and direct the respondents to reimburse the entire medical bills submitted to them within stipulated period of 30 days.

ii) Direct the respondents to reimburse the medical bills at least to the extent of as admissible to the present serving employees".

2. The facts of the case are that the applicant retired as a Divisional Accounts Officer Grade-I on 31.1.1996 and is settled in Ujjain where Central Government Health Scheme (for short 'CGHS') facilities are not available. The applicant had to undergo a by-pass surgery on emergency basis at Lilavati Hospital and Research Centre, Mumbai because of a heart problem that developed on his rail journey to Mumbai. The applicant submitted a bill to the Accountant General Office at Bhopal, for medical reimbursement of Rs.1,86,745/- ^{on 5.3.2002} ~~on 5.3.2002~~ (annexure A/13), in response to which, he was informed by respondent no.3 on 21.10.2003 (annexure A/20) that since the applicant had not registered himself under the CGHS by paying the prescribed contribution, no action can be taken for his request for medical reimbursement. Thereafter, the applicant submitted several representations to various authorities primarily on the ground that there could not be a discrimination between the serving officials and pensioners in the matter of reimbursement of medical expenses. The applicant further represented that since he was allowed benefits under the CS(MA)Rules, while in service, the same benefits should continue to be allowed even after retirement.

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Since the representations of the applicant were rejected, he has approached this Tribunal for redressal of his grievance.

3. In their written reply, the respondents have stated that although the Ministry of Health and Family Welfare has been in favour (vide OM dated 5.6.1998 - annexure R/I) of extending the benefits under the CS(MA) Rules to the pensioners also on the basis of recommendations made by the Fifth Central Pay Commission, the proposal was not finally agreed to vide OM dated 20.8.2004 (annexure R/II). In view of this, pensioners are entitled to medical facilities only under the CGHS provided they have enrolled themselves under the CGHS scheme by paying the requisite contribution. It has also been stated by the respondents that in accordance with OM dated 19.12.1997 (annexure R/IV) a pensioner residing in an area not covered under the CGHS is entitled to a fix medical allowance of Rs.100/- per month in lieu of OPD facilities and in accordance ^{with} ~~to~~ OM dated 7th July, 1987 (annexure R/III) such a pensioner can also get his name registered in any of the CGHS dispensaries for availing of indoor medical facilities like any serving employee. The respondents have averred that since the applicant did not register himself for availing of CGHS facilities from any of the existing CGHS dispensaries, and since the CS(MA) Rules specifically provide that these rules are not applicable to pensioners, the question of reimbursement of medical expenses does not arise.

4. The learned counsel for the applicant drew our attention to the following judgments passed by various Benches of this Tribunal in similar matters:

- (1) **Shri Ratanchand T.Shah Vs. Union of India & others**, OA No.216/2001 decided on 21.10.2002 by the Ahmedabad Bench (copy filed as annexure A/2)
- (2) **Shri A.G.Narayanaswami, IA&AS Vs. Union of India and others**, decided on 14.12.2004 by the Chennai Bench (copy filed as annexure A/4).

(3) Laxmi Chand Vs. Comptroller and Auditor General of India & ors, OA 112/2004 decided on 4.11.2004 by Circuit Bench Gwalior of this Bench [2005 (1) ATJ 31].

The learned counsel for the applicant submitted that despite non-existence of any provision under the CS(MA)Rules for reimbursement of medical expenses to pensioners and despite the provision that a pensioner can get himself registered with a nearby CGHS dispensary, reimbursement was allowed by this Tribunal in the above cases on the ground that these conditions are illogical and unacceptable. The contention of the applicant's counsel is that the afore-mentioned judgments are squarely applicable to the instant case and, therefore, following the decisions in those cases, this OA should be allowed.

5. Opposing the above contention, the learned counsel for the respondents argued that the order passed in the case of Laxmi Chand (supra) is based on the order of the Ahmedabad Bench of the Tribunal in the case of Prabhakar Sridhar Bapat Vs. Union of India and others in OA No205/2003, which has been upheld by the Hon'ble High Court of Gujarat in Special CA No.3843/2004 vide order dated 2.4.2004, but this judgment of the Hon'ble High Court of Gujarat has been challenged before the Hon'ble Supreme Court in SLP No.10659/2005. This SLP along with 8 other similar SLPs were called on for hearing on 26.9.2005, whereupon the Hon'ble Supreme Court condoned the delay in filing the process fee and ordered these matters to be called after six weeks (vide annexure R/7). The learned counsel for the respondents stated that those SLPs are still pending before the Hon'ble Supreme Court and, therefore, the applicant can not be given any relief based on the judgment in the aforementioned OAs.

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6. We have considered the arguments advanced by the counsel of both the parties and have also gone through the respective pleadings and judgments cited by them.

7. It is an admitted fact that the applicant has not registered himself under the CGHS, and under the CS(MA) Rules pensioners are not eligible to get reimbursement of medical expenses. Accordingly, if the existing rules and provisions are applied strictly in letter, ^{and spirit} the applicant is not entitled to get reimbursement of the medical expenses that he has claimed. But, it is also an admitted fact that this Bench as well as other Benches of this Tribunal as also different High Courts have taken a view that merely because of these rules and provisions, pensioners should not be deprived of the facility for reimbursement of medical expenses. At the same time, it is also a fact that all such orders have been challenged by the Union of India before the Hon'ble Supreme Court where SLPs are still pending. Thus the basic issue involved in this OA, namely, notwithstanding the specific provision under the CS(MA) Rules that ~~that~~ pensioners are not entitled to get reimbursement of medical expenses under these rules, whether medical reimbursement can be allowed to a Central Government pensioner even if he is not a CGHS beneficiary, is subjudice with the apex Court, and it may not be appropriate for this Tribunal to pass any order in such a matter. We are, therefore, of the considered view that the subject matter being under consideration of the Hon'ble Supreme Court, the ends of justice will be met if we direct the respondents to apply the judgment and order as may be passed by the Hon'ble Supreme Court in the aforesaid SLPs to the present OA at the appropriate time. We issue directions accordingly. Further, we give liberty to the applicant that after the aforesaid SLPs are disposed of by the Hon'ble Supreme Court and the applicant makes a representation to the competent authority for disposal of his representation in accordance with the directions as

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may be issued by the Hon'ble Supreme Court, the applicant can approach this Tribunal afresh without any consideration of limitation or delay and laches, after his representation is disposed of by the competent authority, in case he still feels aggrieved and so advised.

8. In the result, the OA is disposed of with the above directions. No costs.

A.K. Gaur
(A.K. Gaur)
Judicial Member

G.C. Srivastava
(Dr. G.C. Srivastava)
Vice Chairman

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पूछांकन सं ओ/ब्या..... जलपुर, दि.....

प लि लि पि का के रि ल :-

- (1) स लि, उ च जलपुर का एकेडिशन, जलपुर
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सूचना एवं आवश्यक कार्यवाही हेतु

Leish Palwardhan
Dr. M. K. K. K.
P. J. K. K. K.
Dr. B. V.

25/9/88
उप रजिस्ट्रार

Issued
on 15/09/88
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