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CENTRAL ADMINISTRATIVE TRIBUNAL,
JABALPUR BENCH,
JA BALPUR

Original Application No. 680 of 2005

Jabalpur this the 2nd day of August, 2006.

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

Dinesh Kumar Dalal s/o late Shri Gendalal Dalal, aged 71 years, Head Clerk (Retd) Employees State Insurance Corporation, (ESIC), r/o 418/10, Tilak Nagar (Main), Indore

-Applicant

(By Advocate – Shri D.M.Kulkarni)

V E R S U S

1. Director General, Employees State Insurance Corporation, ESIC Building, Head Quarter Office, Kotla Road, New Delhi-110001.

2. Regional Director, ESIC, Panchdeep Bhawan, Nanda Nagar, Indore

-Respondents

(By Advocate – Shri Vivek Saran)

O R D E R

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

Through this Original Application, the applicant has prayed for the following main relief :-

“8.1 The respondents be directed to entertain the medical reimbursement claim of the applicant

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amounting to Rs.1,20,373/- and reimburse the admissible amount spent by the applicant on the treatment taken by him at the Bombay Hospital, Indore between 14.6.2004 to 8.7.2004 within a specified period of three months and failing to reimburse the same, interest @ 12% per annum be kindly awarded".

2. The case of the applicant is that he is a retired head clerk of the Employees State Insurance Corporation (for short 'ESIC'), Indore and had to undergo coronary angiography and by-pass surgery in June-July,2004 in Bombay Hospital, Indore, for which he spent Rs.1,20,373/. Since Central Government Health Scheme (for short 'CGHS') facility is not available at Indore, he could not opt for this facility. But, his claim was rejected by the impugned order dated 8.12.2004 (annexure A/1) on the ground that pensioners are not entitled to medical reimbursement under CS(MA) Rules.
3. The contention of the applicant is that Bombay Hospital is a government recognized hospital and he cannot be refused reimbursement only because CS(MA) Rules have not been extended to pensioners. In this context, he has cited the judgment of this Tribunal in **Shri Laxmichand Vs. Comptroller and Auditor General of India, New Delhi and ors.**, OA No.112/2004 decided by this Tribunal on 4.11.2004, reported in 2005 (1) ATJ 31. In the said case the applicant was a central government pensioner residing at Gwalior and was treated at Apollo Hospital, New Delhi for heart problems. The Tribunal in the said case has held as under:

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"Merely because the applicant was not member of the CGHS cannot deprive him of his entitlement for reimbursement of the medical expenses incurred by him. We, therefore, have no hesitation in concluding that the claim of the medical reimbursement of expenses incurred by the applicant is denied on untenable grounds and therefore, the OA deserves to be allowed and the respondents are required to be directed to entertain the claim of reimbursement of medical treatment expenses of the applicant and reimburse the same".

The applicant also cited the observations of the apex court in **Surjeet Singh Vs. State of Punjab & ors, AIR 1996 SC 1388** wherein their lordships have held that self preservation of one's life is the necessary concomitant of the right to life enshrined in Article 21 of the Constitution of India, fundamental in nature, sacred, precious and inviolable.

4. Opposing the prayer of the applicant, the respondents in their counter reply submitted that ESIC has its own medical scheme and the applicant has been getting a medical allowance of Rs.100/- per month since December,1997 and he is not entitled to reimbursement of medical expenditure. The learned counsel for the respondents cited the judgment delivered by Chandigarh Bench of the Tribunal in OA No.776-HR-2000 (J.R.Sood Vs. Union of India & ors) in August,2002 in which it was held that retired officers of ESI are not entitled to medical reimbursement of expenses incurred for their treatment after the date of their retirement. It appears that this decision was not challenged and has become final.

5. We have given consideration to the arguments advanced by the counsel of the two sides and have also gone through their pleadings. It is a fact that there is no scheme for indoor medical

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treatment of retired officials of ESIC; they can, however, get medical allowance of Rs.100/- per month in lieu of OPD facilities wherever ESI dispensaries are not available. Pensioners, residing in areas where medical facilities are available through ESI medical institutions or through other similar schemes applicable to them, they can avail of these facilities. Admittedly, Indore does not have any such facility and, therefore, no indoor facilities are available to pensioners living in this area through ESIC medical institutions. It is also an admitted fact that ESIC does not have any scheme or guidelines under which reimbursement of expenses incurred by a pensioner on hospitalization could be reimbursed.

6. In view of the above, following the decision given by the Chandigarh Bench of this Tribunal in the case of J.R.Sood (supra) which deals specifically with ESIC, we hold that the applicant is not entitled to get reimbursement of the medical expenses incurred by him. The cases cited by the applicant relate to government pensioners and not to ESIC pensioners and hence are not relevant to the present case.

7. In the result, the OA is dismissed. No order as to costs.

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

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

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पृष्ठांकन सं. ओ/न्या.....जबलपुर, दि.....

प्रतिलिपि: ठाके शिवा-

(1) सदिव, उच्च वकालतीय नाम उत्तरोत्तरायण, जबलपुर

(2) अधिकारी श्री/प्रीती/कुमा...के काउंसल

(3) प्रधार्य श्री/प्रीती/कुमा...के काउंसल

(4) अंतर्मान, बोर्डा, जबलपुर व्यापारी

सूचना एवं आवश्यक कार्यसाही हेतु

J.M.Ku/KAWS
DVR/MSRE

WVUK LOMAR DMR

Dinesh

P.M. Chintan
17.8.06.Issued
on 17.08.06
AD