

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH

CIRCUIT COURT AT INDORE

Original Application No. 433 of 2002

Indore, this the 16th day of January, 2004

Hon'ble Shri M.P. Singh, Vice Chairman
Hon'ble Shri G. Shanthappa, Judicial Member

1. Balakram Verma, S/o. Shri Munshiram Verma, aged 65 years, Station Manager (Retd), r/o. 2065, Babu Galli, Mhow.
2. Western Railway Pensioners' Association, Mhow, through its Vice President, Shri Roopsingh, s/o Shri D. Singh, aged 72 years, 55, Ayodhyapuri Colony, Kodariya, Mhow. ... Applicants

(By Advocate - None)

v e r s u s

1. Union of India, through Secretary, Railway Board, Ministry of Railways, New Delhi, 110003.
2. General Manager, Western Railway, Churchgate, Mumbai,
3. Divisional Rail Manager, Western Railway, Ratlam.
4. Senior Divisional Accounts Officer, Western Railway, Ratlam. ... Respondents

(By Advocate - Shri Y.I. Mehta, Sr. Adv. assisted by Shri Zameer Ahmed Khan)

O R D E R (Oral)

By M.P. Singh, Vice Chairman -

None is present for the applicant. Since it is a case of 2002, we are disposing it of by invoking the provisions of Rule 15 of CAT (Procedure) Rules, 1987.

2. By filing this Original Application the applicants have sought the following main reliefs :

"8.1 It be declared that the order annexure A-1 issued by the respondent No. 4, the Senior Divisional Accounts Officer stopping payment of medical allowance of Rs. 100/- p.m. for the optee pensioner

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ners is illegal and the same be quashed.

8.2 The respondents be directed to implement the order dated 21.4.99 as amended by annexure A-2 and A-3 be implemented in its true spirit and accordingly, respondents be directed to issue necessary orders to the Banks/Post Offices pension disbursing authorities to make monthly payment of Rs. 100/- as medical allowance to the Railway pensioners who have opted as such from 1.12.1997.

8.3 The respondents be directed to pay interest at the rate of 18% p.a. on the arrears of medical allowance payable to the applicants and railway pensioners/family pensioners who have opted for the same within a specified period as deemed proper."

3. The brief facts of the case as stated by the applicants are that the applicant^{as} well as the members of, applicant No. 2 ^{of} Western Railway Pensioners' Association, Mhow have not opted for out^{door} patient dispensary facility and they are also not permitted to claim medical allowances at the rate of Rs. 100/- per month. According to them the Railway Board has issued a circular dated 21.4.1999 conveying the decision of the Government on the recommendation of the Vth Central Pay Commission for grant of fixed medical allowance at the rate of 100/- per month to the Railway Pensioners/family pensioners. According to them the Central Government Health Scheme is applicable to the Railway employees provided the pensioner becomes its member. This scheme is applicable only to the persons who are residing at Jabalpur in Madhya Pradesh. The Railway pensioners residing in Mhow are ^{not} members of the scheme as there is no facility of CGHS at Mhow or nearby Indore. It is further submitted by them that at Mhow/Indore there are railway lock-up dispensaries. These out door dispensaries are opened part-time in the morning and evening only. Since they are not getting/treatment at this lock up dispensary, they are

entitled for this medical allowance at the rate of Rs. 100/-
They have made a representation to the respondents on 24th
January, 2001, but to no avail. Aggrieved by this, they
have filed this Original Application claiming the aforesaid
reliefs.

4. The respondents in their reply have stated that the applicant No. 2 is neither the aggrieved person nor it is proper party as held by the Ahmedabad Bench of the Tribunal in OA No. 796/1999 on 18.10.2001. They have submitted that the circular issued by the Railway Board clearly states that where there is a non-availability of regular Railway Medical facilities to such persons within the limits of and Municipality/ like areas they should be given Rs. 100/- as fixed medical allowance. Therefore a list of such centres where any type of medical units were available was given in Annexure III of Annexure A-5. But the list also included lockup Health Units/Dispensaries within the meaning of Railway medical facilities. The word lock-up dispensaries meant and were always understood to mean a Railway Medical facility centre which was not providing regularly medical facility to the Railway employee on all working days of a week through-out the year. But Mhow is a place where regular Railway medical facilities are available through out the year on all working days and therefore would be treated as a regular Medical Health unit within serial No. 'D' of Western Railway at Annexure III of Annexure A-5. It was due to oversight that Mhow was not indicated in that Annexure III of Annexure A-5. Vide circular dated 16.08.2001 the same has been included (Annexure R-2). As per letter dated 21st October, 1999

GP.

(Annexure A-6) the list given in Annexure-III, regarding Lock up dispensaries, were deleted mentioning thereby that such persons who are residing in such areas where lock up dispensaries are situated and where no other health unit is available shall be entitled for grant of medical allowance at the rate of Rs. 100/- per month provided they opt for the same. But such deletion has no bearing on the controversy in ~~the~~ hand and impugned order at Annexure A-1 has rightly been passed taking into consideration the spirit of Annexure A-5. As there has been Railway health unit available since the time of British regime, no fault could be found with it. In view of this fact the Original Application is without any merit and the same is liable to be dismissed.

5. Heard the learned counsel for the respondents and have very carefully considered the submissions made by the learned counsel for the respondents and also considered the pleadings.

6. We find that the Railway Board letter dated 21st April, 1999 (Annexure A-5) specifically states as under :

"..... Sanction of the President is hereby accorded to the grant of fixed medical allowance @ Rs. 100/- p.m. to railway pensioners/family pensioners residing outside the City/town/municipality limits of places where a Railway hospital/health unit/Lock up dispensary is situated, subject to fulfilment of the conditions laid down in the following paragraphs.

4. Existing pensioners as well as the future retirees shall have to exercise one time option in the prescribed form (Annexure -I) to avail of medical facilities at OPD of Railway Hospitals or to claim fixed medical allowance of Rs. 100/- p.m."

Annexure-I is an undertaking and option form, annexed with the letter dated 21st April, 1999. The same is as follows :

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"I..... hereby declare that :-

my place of residence lies within the City/town/municipality limits of the places where Railway Hospitals/Health Units/Lock up dispensaries exist hence, I am not entitled for the grant of Medical Allowance and I will be availing the existing OPD Medical facilities, the necessary endorsement may please be made in my PPO in this regard.

OR

I am residing in a place which lies outside the jurisdiction of City/town/municipality limits of the places where Railway Hospitals/Health Units/Lock up dispensaries are available as mentioned in Annexure III of Railway Board's letter No. PC-V/98/I/7/1/1 dated 21.4.99 (S.No. PC-V/167, RBE No. 65/99). Accordingly, I hereby opt :-

- i) for the OPD medical facility from railway Hospitals/Health Units/Lock up dispensaries.

OR

- ii) to claim fixed medical allowance of Rs. 100/- per month.

Necessary endorsement may please be made in my PPO in this regard."

The undertaking and option form clearly indicate that a person whose residence lies between the city/town, where Railway hospitals/health units/lock up dispensaries exist, he is not entitled for grant of medical allowance and will be availing the existing OPD medical facilities, in these places. The Railway Board vide its letter dated 21st October, 1999 (Annexure A-6) has deleted the words lock up dispensaries from the circular issued on 21st April, 1999, meaning thereby that the persons who are residing in such areas where lock up dispensaries are situated and where no other health unit is available shall be entitled to grant of fixed medical allowance at the rate of Rs. 100/- per month. In this case we find that Mhow has a health unit and not a lock up dispensary. The Railway Board vide its letter dated 16th August, 2001 which has been circulated by the DRM Office vide their letter dated 24.09.2001 states that Mhow and Bhilwada Health Units should be included

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in the list of Health Units at Annexure-II of Annexure A-5, issued by the Railway Board on 21st April, 1999. Since the applicants are residing at Mhow, where there is a regular health unit which is within the municipal limits of Mhow, they can avail the OPD facilities from that unit and thus are not entitled for grant of Rs. 100/- per month as fixed medical allowances.

7. In view of the facts mentioned above the Original Application does not have any merit and is accordingly, dismissed. No costs.

G. Shanthappa

(G. Shanthappa)
Judicial Member

M.P. Singh
(M.P. Singh)
Vice Chairman

"SA"

पूर्णकाल सं लो/स्थान..... नामांकन दि.....

पुस्तकालय नं. 11204

(1) राजिका व राजीव गांधी विद्यालय

(2) अमृता विद्यालय, नामांकन दिनांक

(3) राजिका व राजीव गांधी विद्यालय, नामांकन दिनांक

(4) राजिका व राजीव गांधी विद्यालय, नामांकन दिनांक

सूक्ष्म गुण वालांकान दिनांक

DM Kulkarni

Y Mehta

Bejimdar
प्रधान सचिव 11/2/04

T. S. S.
11.2.04