

NOTES OF THE REGISTRY

ORDERS OF THE TRIBUNAL

~~22.01.2009~~~~OA No. 466/2006~~

~~Mr. Subhash Bisawa, Counsel for applicant.~~
~~Mr. Anupam Agarwal, Counsel for respondents.~~

~~Additional Affidavit has not been filed so far. Let it~~
~~be 06.12.2009. In the meanwhile, the respondents may~~
~~file Additional Affidavit.~~

~~(G.L.KHATRI)~~
~~MEMBER (A)~~

~~AHQ~~29.01.2009OA No. 466/2006

Mr. C.B. Sharma, Counsel for applicant.
Ms. Kavita Bhati, Proxy counsel for and
Mr. Kunal Rawat, Sr. Standing Counsel for respondents.

Heard learned counsel for the parties.

For the reasons dictated separately, the OA is disposed of.


(B.L.KHATRI)
MEMBER (A)

AHQ

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH

Jaipur, this the 29th day of January, 2009

ORIGINAL APPLICATION NO. 466/2006

CORAM:

HON'BLE MR. B.L. KHATRI, ADMINISTRATIVE MEMBER

Dr. B. Jena son of Shri D.C. Jena, aged about 59 years, resident of 10, Vinayak Complex, Nasiya Ji Jain Mandir Road, Dadabari Extension, Kota and presently working as Chief Medical Officer In charge, Postal Dispensary, Kota.

.....APPLICANT

(By Advocate: Mr. C.B. Sharma)

VERSUS

1. Union of India through its Secretary to the Government of India, Department of Posts, Ministry of Communication and Information Technology, Dak Bhawan, Sansad Marg, New Delhi.
2. Chief Postmaster General, Rajasthan Circle, Jaipur.
3. Senior Superintendent of Post Offices, Kota Postal Division, Kota.

.....RESPONDENTS

(By Advocate: Mr. Kunal Rawat, Sr. Standing Counsel
and Ms. Kavita Bhati)

ORDER (ORAL)

PER HON'BLE MR. B.L. KHATRI

In this OA, the applicant is aggrieved against the inaction on the part of the respondents for not allowing reimbursement of fee for the Medical Examination of RPLI Policies for the year 2005-2006 and 2006-2007. Through this OA, the applicant had prayed for the following reliefs:-

- (i) That respondents be directed to release payment of dues amount towards fee for medical examination of PLI Policies pending with them for the year 2005-2006 and 2006-2007 with the interest at market rate.
- (ii) Any other order, direction or relief may be passed in favour of the applicant, which may be deemed fit, just and proper under the facts and circumstances of the case.
- (iii) That the costs of this application may be awarded."

2. Brief facts of the case as stated by the applicant in Para No. 4 of the OA are that:-

4(1) That so far relevant to this OA, the applicant is substantive employee of the Government of India and rendering service in postal department as Chief Medical Officer In charge, Postal Dispensary, Kota and going to be superannuated on 31.01.2007. The respondent department is also working business of Insurance Policies named as Postal Life Insurance through the Departmental Staff by way of obtaining proposals from the Central Government Servants as well as State Government Servants with the staff of Public Sector and as per procedure insurant is to be examined by the Medical Officer prior to acceptance of proposal for insurance. The insurant are being examined for medical purpose by the Medical Officer working at Kota including applicant for which fee of Rs.20/- per proposal has been prescribed and the same is being paid time to time by issuing necessary sanction by the respondent no. 3. Copies of sanctions in respect of fee issued on 17.03.2002 and 28.03.2005 are annexed herewith and marked as Annexure A/2 and Annexure A/3 respectively.

It is further submitted that the similar sanctions also issued in the year 2003 and 2004.

4(2) That the applicant further examined the insurants in the year 2005 and 2006 for which payment has been withheld without any reasons onwards April, 2005 for which he made request vide letter dated 15.05.2006 (Annexure A/3) and further on 11.08.2006 (Annexure A/4).

4(3) That the applicant further made request to the respondent NO. 2 and at one stage respondent no. 2 informed the applicant vide letter dated 03.10.2006 (Annexure A/6) to the effect that matter is being referred to the PLI Directorate, New Delhi for clarifications and since then due amount has not been released inspite of fact that applicant is going to be retired on superannuation on 31.01.2007.

4(4) That the respondents without any base withheld the due amount and the matter is being linger on to put the applicant in adverse position and applicant again submitted detailed request before respondent no. 2 on 14.10.2006 (Annexure A/1) and the same is pending since last 2 months.

4(5) That the respondents withheld the due amount of fee for medical examination of PLI Policies in the garb of clarifications inspite of fact that since last so many years payment of fee is being paid to the applicant as well as other Doctors working in the Hospitals in Kota City and the amount of the applicant is not being released which is not at all justified. However, applicant also submitted his undertaking to refund the amount if not admissible with the request dated 14.10.2006 (Annexure A/1).

3. The respondents have filed their reply thereby opposing the claim of the applicant. In the reply, it is submitted that:-

(1) There is a procedure to examine the proponent by the Medical Officer before acceptance of proposal for insurance and thereby a prescribed fee for the Medical Officers is sanctioned on those who do not avail the benefit of Non-Practicing Allowance (NPA). It was the duty of the applicant not to claim the examination fee as he is receiving the Non Practicing Allowance but the applicant erroneously claimed the same and got sanctioned the same. In the PLI section of the respondents department, the information of NPA of the applicant was not available. Therefore by mistake, the sanctions were issued earlier. The applicant was morally duty bound not to take the money for which he was not entitled as he was a responsible civil servant. It is further submitted that when the applicant was getting NPA, he was not required to medically examine the persons as he was not entitled to get medical examination fee in the above circumstances.

(2) That the contents of Paras 4.2 to 4.4 of the OA are not admitted being misconceived and misleading. It is, however, submitted that the payment of Medical

Examination fee for the year 2005-06 has been withheld as the applicant was not entitled to get the Medical Examination fee as per the rules. But the respondent on receipt of the representations from the applicant referred the matter to PLI Directorate, New Delhi vide office letter NO. 11/Prop/06 dated 3.10.2006. A photostate copy of the letter dated 3.10.2006 is filed herewith and marked as Annexure R/1. The applicant's case was also referred to the Circle Internal Financial Advisor Jaipur for offering his opinion on the subject but the Circle Internal Financial Advisor opened that no fee to Medical Officer in receipt of NPA should be payable by the Department of posts who are performing the Department work of PLI/RPLI. A photostate copy of the opinion on the note sheet is filed herewith and marked as Annexure R/2. The applicant was informed vide office letter No. even number dated 3.10.2006, the copy of which has already been filed by the applicant as Annexure A-6 with this OA. The PLI Directorate was also reminded from time to time vide respondents letter dated 23.11.2006 and 12.12.2006 to expedite the matter of clarification. The photostate copies of the letter dated 23.11.2006 and 12.12.2006 are filed herewith and marked as Annexure R/3 and R/4 respectively.

- (3) That the contents of Para 4.5 of the OA are not admitted as stated being misconceived and misleading. The amount of the applicant was withheld due to his non entitlement to get the same as he was already drawing the Non Practicing Allowance from the respondents department. The PLI Directorate, New Delhi vide its letter No. 25-6/06/LI (Pt.) dated 20.12.2006 has clarified that Medical Officers of Government Dispensaries etc. shall be paid medical examination fee as per the existing orders on the subject. The photostate copy of the letter dated 20.12.2006 is filed herewith and marked as Annexure R/5. Thereafter, as per directions of the PLI Directorate, the copy of ruling was obtained from Addl. Director (Gztd. Estt.) Medical and Health Services, Rajasthan, Jaipur on 25.01.2007. A copy

of the said letter No. F.3(31)Chi.Swa.2/88 dated 24.11.92 from Dy. Secretary to the Government Medical & Health (Gr.-2) Department Rajasthan, Jaipur was obtained in which the position was specifically clarified for the Medical Officers getting NPA regarding payment of medical examination fee. The photo state copy of the letter dated 24.11.1992 is filed herewith and marked as Annexure R/6. A bare perusal of letter 24.11.92 is self explanatory and thereby the applicant is not entitled for payment of Examination fee. Further the amount, which the applicant has already taken unlawfully, is also required to be recovered to meet the end of justice.

4. I have heard the learned counsel for the parties and also perused the material placed on record.

5. After arguments, learned counsel for the applicant submits that respondents may be directed to decide the case of the applicant as per the directions contained in the letter dated 20.12.2006 (Annexure R/5). Accordingly, respondent no. 2 is hereby directed to pass a detailed speaking & reasoned order after having relied upon the relevant rules on the subject within a period of two months from the date of receipt of a copy of this order. In case the applicant is aggrieved by the order to be passed by respondent no. 2, he is at liberty to approach this Tribunal again.

6. With these observations, the OA is disposed of with no order as to costs.


(B.L. KHATRI)
MEMBER (A)

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