

23.10.2009

OA No. 27/2008

Mr. C.B. Sharma, Counsel for applicant.  
Mr. T.P. Sharma, 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 23<sup>rd</sup> day of October, 2009

**ORIGINAL APPLICATION NO. 27/2008**

**CORAM:**

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

Abdur (Abdul) Rauf son of Haji Karim Buksh, aged about 73 years, resident of HK Building, Near Raymond Showroom, M.I. Road, Jaipur. Retired as Accounts Officer, Telecom, Office of Telecom District Engineer, Bharatpur.

.....APPLICANT

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

VERSUS

1. Union of India through its Secretary, Department of Telecommunications, Ministry of Communication and Information Technology, Sanchar Bhawan, New Delhi.
2. Chairman and Managing Director, BSNL Corporate Office Stateman's House, Barakhambha Road, New Delhi.
3. Chief General Manager, Telecom, Rajasthan Circle, Sardar Patel Road, Jaipur.

.....RESPONDENTS

(By Advocate: Mr. T.P. Sharma)

**ORDER (ORAL)**

This OA has been filed by the applicant against the order dated 11.01.2008 (Annexure A/1) issued on behalf of Respondent no. 3 by which medical claim preferred by the applicant for his treatment in Santokabha Durlabhiji Memorial Hospital, Jaipur as indoor patient from 01.09.2007 to 25.09.2007 and thereafter, follow up treatment at Bhagwan Mahaveer Cancer Hospital, Jaipur, had not been entertained by respondent no. 3 on the ground that after formation of BSNL w.e.f. 01.10.2000, retired employees retired prior to 01.10.2000 are not



eligible for medical reimbursement scheme inspite of fact that applicant retired from Department of Telecom on 28.02.1993 before formation of BSNL.

2. In the preliminary reply filed by respondent no. 1, it is submitted that the applicant by filing of this OA has prayed for the benefit of medical reimbursement after the retirement, which is not applicable as the pensioners who are availing the medical facility from P&T dispensaries are not covered under CGHS and are not entitled for any medical reimbursement. Hence the applicant is not entitled to any medical reimbursement.

3. In Para No. 4.6 of the reply filed by respondent no. 1, it is submitted that the Government pensioners are not covered under CGHS, are not entitled for reimbursement of medical expenses under CS(MA) Rules 1944. It is also submitted that some of the Tribunals have allowed the OAs by directing the respondents to reimburse the medical expenses/claims to the pensioners, who are not covered under the rules of 1944. Therefore, when this fact came to the knowledge, the Ministry of Health & Family Welfare examined the matter and issued a clarification on 20.08.2004 to the OM dated 05.06.1998. In that in the last para, it is clearly mentioned that the CS (MA) Rules, 1944 is not applicable or not extended to the pensioners residing in the area which are not covered by the CGHS Scheme. Thereafter, the Government of India has approached ~~to~~ the Hon'ble Apex Court by challenging the orders of the Hon'ble Tribunal, Ahmedabad and Gujarat Bench regarding reimbursement of the medical claim to the

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pensioners to the CS (MA) Rules, 1944. The Special Leave Petitioners preferred by the respondents were listed on 02.05.2005 before the Hon'ble Supreme court and the Hon'ble Supreme Court has pleased to pass an order in favour of the respondents that contempt proceedings initiated shall remain in abeyance until the further orders.

4. BSNL has also filed their reply thereby opposing the claim of the applicant.

5. I have heard the learned counsel for the rival parties. The respondents are directed to decide the claim for medical reimbursement of the applicant as per the judgment to be delivered by the Hon'ble Apex Court in the similar cases.

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

  
(B.L. KHATRI)  
MEMBER (A)

AHQ