

O.A.NO. 060/01104/14
& O.A.NO. 060/01105/14



CENTRAL ADMINISTRATIVE TRIBUNAL

CHANDIGARH BENCH

Decided on : 12.01.2015

CORAM: **HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J)**
HON'BLE MS. RAJWANT SANDHU, MEMBER (A)

(I) O.A.NO. 060/01104/14

S.K. Bhatnagar son of Late B.B.L., Bhatnagar, Ex. PA, office of CPMG, Chandigarh, PPO No. Postal/2013/PN/50279, resident of Flat No. D-73, Spangle Heights, Dhakoli, Zirakpur, District Mohali.

Applicant

By: Mr. G.P. Vashisht, Advocate

Versus

1. Union of India through its Secretary, Department of Posts, Dak Bhavan, New Delhi.
2. Secretary to Government of India, Department of Pension and Pensioners' Welfare, Shastri Bhawan, New Delhi.
3. Chief Post Master General, Punjab Circle, Chandigarh.

Respondents

By : Mr. Rakesh Verma, Advocate.

(II) O.A.NO. 060/01105/14

Chaman Lal Aggarwal son of Om Parkash, Retired Deputy Post Master, resident of House No. 2246, Sector 44-C, Chandigarh.

Applicant

By: Mr. G.P. Vashisht, Advocate

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Versus

1. Union of India through its Secretary, Department of Posts, Dak Bhavan, New Delhi.
2. Secretary to Government of India, Department of Pension and Pensioners' Welfare, Shastri Bhawan, New Delhi.
3. Chief Post Master General, Punjab Circle, Chandigarh.
4. Senior Superintendent of Post Offices, Patiala Division, Patiala.

Respondents

By : Mr. Rakesh Verma, Advocate.

O R D E R (oral)
SANJEEV KAUSHIK, MEMBER (J)

1. The facts of the case and point of law involved in these two petitions are identical and as such we propose to dispose of the same by a common order.
2. No reply in the case of Chaman Lal Aggarwal has been filed. Reply in the case of S.K. Bhatnagar has been filed by the respondents. Learned counsel for respondents submitted that since the question of law raised in both the cases is common, he would address arguments in both the cases on the basis of reply filed in Bhatnagar's case.
3. For the facility of reference the facts are being taken from S.K. Bhatnagar's case.
4. The applicant has filed this O.A. seeking quashing of the order dated 7.11.2014 (A-2) vide which his claim for medical reimbursement of Rs.2,01,010.14 has been rejected and for issuance of direction to the respondents to reimburse him Rs.2,01,010.14 with interest.

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5. The applicant is a retired employee of Department of Posts and is in receipt of Fixed Medical Allowance per month. He was operated upon ~~on~~ PGIMER, Chandigarh for coronary stent and discharged on 6.5.2014 for which he incurred an expenditure of Rs. 2,01,010.14. He submitted the bill for reimbursement to the respondents which has been rejected vide letter dated 7.11.2014 (A-2) on the ground that there is no rule which allows claim of a retired employee. As per para (iv) below Rule 2 of Rule 1 of CS (MA) Rules, 1944, pensioners are not covered for reimbursement of medical expenses. In the case of Chaman Lal Aggarwal, the medical reimbursement claim of Rs.2,33,131.73 has been rejected on the same premise.
6. The stand taken by respondents in the reply is on similar lines as taken in the impugned rejection orders that the retired employees are not covered by the CS (MA) Rules, 1944. They have further stated that the issue is under consideration between MoH&FW, Law Ministry and Postal Directorate. They submit that no doubt in OM dated 5.6.1998, Ministry of Health and Family Welfare, New Delhi, had stated that it has no objection to the extension of CS (MA) Rules, 1944 to retired employees ~~on~~ non-CGHS areas, but vide OM dated 20.8.2004 it was clarified that OM dated 5.6.1998 was not a final order and in any case Ministry of Finance had stated that in view of huge financial implications, it was not feasible to extend CS (MA) Rules, 1944 to the pensioners.
7. We have heard learned counsel for the parties at length and examined the material on the file.

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8. Learned counsel for the applicant placed reliance on decision of a co-ordinate Bench of this Tribunal in O.A.No. 197-PB-2009 (**Kuldip Singh Virk Vs. Union of India & Others**) decided on 5.3.2010 and decision of Jabalpur Bench of this Tribunal in the case **of Laxmi Chand Vs. Comptroller & Auditor General of India**, 2005 (1) ATJ 31, wherein claim lodged by retired employees was allowed by the courts. Reliance has also been placed on the following cases, to argue that receipt of fixed medical allowance cannot be an impediment in allowance of indoor treatment of pensioners :-
- (a) **Mohinder Singh Vs. Union of India & Others**, 2008 (2) SCT 239.
 - (b) **Darshan Singh Rai Vs. Union of India & Others**, 2008 (2) RSJ 68.
 - (c) **P.S.Noor Vs. Union of India & Others**, 2009 (1) RSJ 68.
 - (d) **Kishan Chand Vs. Govt. Of NCT and Others**, Writ Petition (C) No. 889/2007.
 - (e) **Inder Sain Sachdeva Vs. Union of India & Others**, O.A.No. 10-CH-2010 decided on 02.12.2011.
 - (f) **Avtar Singh Grover Vs. Union of India**, O.A.No. 1145-PB-2013 decided on 22.1.2014 (A-5).

9. We have considered the submissions made on behalf of the parties carefully.
10. It is not in dispute that the learned counsel for the applicant has placed reliance on a number of decisions of courts of law in support of his claim but the respondents have not considered those decisions at all and have rejected the claim of the applicant on the ground that the CS (MA)

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Rules, 1944 do not cover the retired employees. It is not in dispute that this plea has been considered and adjudicated upon in the aforesaid cases and as such it would be in the fitness of things to remand both these cases to the respondents to have a fresh view on the issue in the light of judicial pronouncements relied upon by both the applicants as the respondents themselves claim that the issue is pending consideration at the Ministry level.

11. In view of the aforesaid discussion, both these Original Applications are disposed of with a direction to the competent authority among the respondents to have a fresh view of the matter in the light of judicial pronouncements on the issue and if case of applicants is covered by the same, release due benefits to them within a period of three months from the date of receipt of a certified copy of this order. Needless to mention over here that we have not commented upon anything on merits of the case.

12. No costs.

**(SANJEEV KAUSHIK)
MEMBER (J)**

**(RAJWANT SANDHU)
MEMBER(A)**

Place: Chandigarh
Dated: 12.01.2015

HC*