

**Central Administrative Tribunal
Principal Bench, New Delhi**

OA No.2069/2015
MA No.3852/2016

Order reserved on: 18.05.2017

Pronounced on: 26.05.2017

Hon'ble Mr. K.N. Shrivastava, Member (A)

Smt. Angoori Devi Gautam,
w/o Late Sh. Mahabir Prasad,
R/o H.No.56, Block-I, Pocket-2,
Sector-16, Rohini,
Delhi.

..Applicant

(By Advocate Shri H.S. Gautam)

Versus

1. Union of India through the
Secretary, Ministry of Railways,
New Delhi.
2. The Additional Divisional Railway Manager,
North Central Railway,
DRM Office, Civil Line,
Allahabad, UP-211003.
3. Senior Divisional Personal Officer North
Central Railway, DRM Office, Civil Line,
Allahabad, UP-211003.
4. Senior Deputy General Manager,
North Central Railway,
Headquarter Office,
Subedar Ganj,
Allahabad, UP.

..Respondents

(By Advocates Shri Kripa Shankar Prasad and Shri Sanjay Kumar)

ORDER

Applicant’s husband Shri Mahavir Prasad retired on 31.03.1992 from the service of the respondent-Railway department. At the time of his retirement he was holding the post of Platform Jamadar, SS (Aligarh). On his retirement, pension was sanctioned to him. He died on 21.01.2009. After his death, the applicant, being his widow, was sanctioned family pension, which she has been drawing.

2. The applicant has availed medical treatment for various ailments during the year 2014 and has incurred huge medical expenses on the medical treatment. The names of the hospitals and the medical bills issued by these hospitals are indicated in the table below:

S. No.	Name of the Hospital	Amount in Rs.
1.	St. Stephen’s	69,913/-
2.	Medanta Global Health Pvt. Ltd. Gurgaon	5,95,968/-
3.	Saroj Hospital & Heart Institute, Rohini, Delhi.	1,07,142/-
4.	Dr. Lal Path Lab.	11,981/-
	Total:	785,004/-

3. In addition, the applicant is stated to have incurred about Rupees two lakh of expenses towards the cost of medicines, consultation fees paid to private doctors and nurses. She has,

however, claimed medical reimbursement to the tune of Rs.7,85,004/- from the respondent-railway department. Her claim for medial reimbursement has not been considered by the railway department purportedly on the ground that she is not a member of Retired Employees Liberalized Health Scheme (RELHS), 1997 and as such, reimbursement cannot be allowed. Her representation dated 11.06.2014 in this regard to the railway authorities has remained unanswered. Under these circumstances, the applicant has approached this Tribunal in this OA praying for the following reliefs:

“A. To direct the respondents to make payment of Rs.9,85,004/- towards medical expenses paid by applicant (pensioner) for her treatment to the hospitals and others.

B. To direct the respondents to make payment of litigation expenses accrued by the applicant.

C. To direct the respondents to issue medical card in favour of the applicant to get treatment from Railway hospitals.”

4. Pursuant to the notices issued, the respondents entered appearance and filed their reply. The important averments made in the reply are as under:

i) The applicant's husband late Mr. Mahavir Prasad had not opted for the health scheme prevalent when he was in service. Thus, neither the husband nor the applicant could avail medical facilities at the railway hospitals.

ii) The railway department had introduced Retired Employees Liberalized Health Scheme (RELHS), 1997 for the benefit of such

employees who had not availed the prevalent health scheme of the railway department. The applicant, being widow of a deceased railway employee, could have applied for RELHS, 1997 but she did not do so. The scheme had been kept open upto March, 2009. The applicant without joining RELHS, 1997 cannot claim medical reimbursement of the expenses incurred.

5. The applicant, thereafter, filed her rejoinder to the reply filed on behalf of the respondents. She has stated in it that even without joining RELHS, 1997, she is entitled for medical reimbursement as per the ratio of law laid down by the Hon'ble High Court of Delhi in the case of **Ram Kumar Kaushik v. Govt. of NCT of Delhi**, [229 (2016) DLT 219].

6. Arguments of the parties were heard on 18.05.2017.

7. Shri H.S. Gautam, learned counsel for the applicant, besides reiterating the averments made in the OA, stated that the Hon'ble High Court of Delhi in **Ram Kumar Kaushik** (supra) has clearly held that a government employee during his life time as well as after his retirement is entitled to get the benefit of medical facilities and no restriction can be imposed to deprive such facilities to the government servant. He further stated that the applicant is a widow of a deceased railway employee and as such in terms of this judgment, she is entitled for the medical reimbursement. Hence, the reliefs prayed for may be allowed.

8. Shri Kirpa Shanker Prasad, learned counsel for the respondents, on the other hand, stated that neither the applicant nor her husband joined RELHS, 1997 which was basically meant for providing medical facilities to the retired railway employees. Hence, the claim of the applicant for medical reimbursement cannot be considered. Shri Prasad further stated that the judgment of Hon'ble High Court of Delhi in **Ram Kumar Kaushik** (supra) is not applicable to the instant case. He particularly drew my attention to para-3 of the judgment wherein it is mentioned that the petitioner therein (Mr. Ram Kumar Kaushik) had become a member of Delhi Government Employees Health Scheme (DGEHS) later, after suffering two cardiac attacks. Shri Prasad contended that neither the applicant nor her husband had ever been member of RELHS, 1997. The applicant's husband had also not become member of the prevalent health scheme of the railway department while in service. RELHS, 1997 was started by the railway department to facilitate retired government servants to avail proper medical care. Since the applicant never became member of the RELHS, 1997, the respondents were fully justified in denying her claim for medical reimbursement.

9. The entire claim of the applicant is based on the judgment of the Hon'ble High Court of Delhi in **Ram Kumar Kaushik** (supra). The relevant part of the judgment is extracted below:

“8. It is quite shocking that despite various pronouncements of this Court and of the Apex Court the respondents in utter defiance of the law laid down have taken a position that the pensioner is not entitled to the grant of medical reimbursement since he did not opt to become a member of the said health scheme after his retirement or before the said surgery undergone by him. It is a settled legal position that the Government employee during his life time or after his retirement is entitled to get the benefit of the medical facilities and no fetters can be placed on his rights on the pretext that he has not opted to become a member of the scheme or had paid the requisite subscription after having undergone the operation or any other medical treatment. Under Article 21 of the Constitution of India, the State has a constitutional obligation to bear the medical expenses of Government employees while in service and also after they are retired. Clearly in the present case by taking a very inhuman approach, these officials have denied the grant of medical reimbursement to the petitioner forcing him to approach this Court. The respondents did not bother even after the judgment of this Court was brought to their notice and copy of the same was placed by the petitioner along with the present petition.

9. In the light of the aforesaid, the present petition is allowed.

10. The respondents are directed to pay the said medical claim of the petitioner along with 18% interest from the date of submission of his bill. The said payment shall be made by the respondent within one month from the date of this order. Additional costs of Rs. 10,000/- is also imposed on the respondents for causing delay in making the said payment to the petitioner."

7. In view of the aforesaid mandate of law, the present writ petition is allowed and a direction is issued to the respondents to reimburse the petitioner's medical expenses/claim on account of his treatment in the hospital, within a period of eight weeks."

10. I have gone through the *ibid* judgment. As mentioned in para-3 of the judgment, the petitioner therein Mr. Ram Kumar Kaushik had belatedly become a member of DGEHS. Furthermore, this judgment talks of health care of the government servant only. It does not talk of spouse of the government servant. Hence, I am of the view that this judgment does not apply to the case of the applicant on the ground of difference in the facts and

circumstances. Further, the applicant never became a member of RELHS, 1997. Hence the respondents are justified in declining the reimbursement of her medical expenses.

11. In the conspectus of the discussions in the foregoing paras, I do not find any merit in the OA. The OA is accordingly dismissed.

12. In view of this order, MA No.3852/2016 also stands disposed of.

13. No order as to costs.

(K.N. Shrivastava)
Member (A)

‘San.’