

**Central Administrative Tribunal
Principal Bench**

OA No. 1422/2017
MA No.4623/2017

Order reserved on: 06.09.2018
Order pronounced on : 19.09.2018

Hon'ble Mr. Pradeep Kumar, Member (A)

K.N.Sharma,
Age-76,
Designation- Regional Director (Retd.), SAI
Group-Group A
S/o Late Sh. Laxman Das,
R/o B-2/91, Paschim Vihar,
New Delhi-110063.

... Applicant

(By Advocate: Ms. Smriti Sharma)

Versus

1. Union of India
Through Secretary,
Ministry of Youth Affairs and Sports,
C-Wing, Shastri Bhawan,
New Delhi-110001.
2. Sports Authority of India
Through Director General,
East Gate, Jawahar Lal Nehru Stadium,
Lodhi Road,
New Delhi-110003.
3. Ministry of Health and Family Welfare
Through Secretary,
C-Wing, Nirman Bhawan,
New Delhi-110001.
4. Additional Secretary and Director General,
CGHS, A-244, Nirman Bhawan,
New Delhi-110001.

... Respondents

(By Advocate: Ms. Kiran Ahlawat with
Mr. Ashwani Upadhyay for Resp. 1, 3 & 4.
Ms. Geetanjali Sharma for Resp.2)

ORDER

Heard Ms. Smriti Sharma, learned counsel for applicant, Ms. Kiran Ahlawat with Mr. Ashwani Upadhyay, learned counsel for respondents No. 1, 3 & 4 and Ms. Geetanjali Sharma, learned counsel for respondent No. 2.

2. The applicant was working under Sports Authority of India (SAI) and retired from service on 31.12.2001. Thereafter, the applicant's wife suffered from cardiac problem on 01.10.2015 and she had to be admitted to a hospital wherein certain procedures were done. Applicant applied for reimbursement of expenditure incurred thereon amounting to Rs.2,40,418/- vide his representation dated 19.10.2015. The applicant thereafter sent a legal notice also on 09.07.2016. The same has, however, remained un-replied. The grievance of the applicant in the instant OA is for reimbursement of expenditure amounting to Rs.2,40,418/- along with interest etc.

3. In support thereof, the applicant drew attention to a reply issued by the respondents under RTI vide their letter dated 30.01.2017. As per this RTI reply, Central Services (Medical Attendance) Rules, 1944 are applicable to SAI employees. Following is the reply of SAI:

S.N.	Information required	Reply
1.	Copy of Medical Policy applicable to the employee of the Sports Authority of India	In SAI, CSMA rules 1944 is applicable.
2.	Copy of Medical Policy applicable to the employee of the Sports Authority of India	As per CSMA rule 1944 an amount of Rs.500/- is being paid alongwith their pension as Medical facilities.
3.	Copy of medical facilities provided to retired Regional Director as well as spouse of a retired regional director, SAI.	Same as S.No.2
4.	Copy of the resolution/rules and any other manual governing the medical facilities as provided by the governing body of the Sports Authority of India to its employees (both current and retired)	No Such resolution passed by the Governing Body of SAI
5.	Under what scheme current and retired employees (alongwith spouse) can claim medical allowance.	For current employee CSMA Rules 1944 are applicable and for retired employee Rs.500/- per month is being paid alongwith pension.
6.	Whether the retired employees and their families of the Sports Authority of India are covered under the Central Government Health Scheme.	No

4. The applicant further drew attention to para 44 of the conditions of service applicable in SAI which reads as under:

“Other conditions of Service

In respect of matters not provided for in these Bye-laws, regarding general conditions of service, pay, allowances including travelling and daily allowances transfer

allowance, leave travel concession, level salary, advances, joining time, rules and orders as contained in the Fundamental and Supplementary Rules and other orders and decisions issued by the Govt. from time to time as applicable to the Central Govt. Servants shall apply mutatis-mutandis to the employees of the Society.”

5. The applicant further drew attention to the following judgments to stake the claim that he is entitled for this reimbursement:

(1) **Suraj Bhan vs. Govt. of NCT of Delhi & ors.**, ILR (2010) IV DELHI 559 of Hon’ble High Court of Delhi

(2) **Avtar Singh and ors vs. UOI and ors**, WP (C) no.1844/2011 decided on 07.12.2012 of Hon’ble High Court of Delhi

(3) **Laxmi Chand vs. Comptroller and Auditor General..**, 2005 (2) SLJ 145 CAT of Central Administrative Tribunal, Gwalior.

6. The respondents pleaded that, in respect of SAI, the only provision in respect of medical facility for the retired employee is payment of fixed medical allowance at the rates which are decided from time to time. At present, in respect of the same, office memorandum was issued on 19.11.2014 wherein this allowance was fixed as Rs.500/- per month, which has already been paid. Relevant para in this connection is extracted below:

“2. The demand for further enhancement of FMA has been under consideration of the Government for some time past. Sanction of the President is hereby conveyed for enhancement of the amount of Fixed Medical Allowance from Rs.300/- to Rs.500/- per month. The other conditions for grant of Fixed Medical Allowance shall continue to be as contained in this Departments’

OM No.45/57/97-P&PW(C) dated 19.12.97, 24.8.98, 30.12.98 and 18.8.99.”

7. Further in respect of extended CGHS facility to the retired SAI employees, a representation was made to the Ministry of Health and Family Welfare, who vide their letter dated 7.10.2015 have not agreed to this request. The relevant para is reproduced below:

“Please refer to your D.O. No. SAI/Pers/10/(20)/90-Admn./Vol. III (Policy) dated 09/09/2015 on the subject cited above.

2. In this connection, it is informed that the current policy of the Government is not to extend CGHS facilities to any new organization, as the resources under CGHS are fully committed. The matter was also deliberated by the Committee of Secretaries (CoS) in its meeting held on 4/6/2015 and it has been decided not to extend CGHS facilities to any new organization i.e. those organizations that were not availing CGHS facilities earlier.”

8. The respondents further brought out the service conditions for SAI wherein following provisions have been made:

“34. Medical Facilities.

(a) All employees of the Society shall be entitled to such medical facilities as may, from time to time, be determined by the Governing Body provided that in case of a borrowed or ex-Central Govt. employee he/she shall have the option to elect for medical facilities provided under the Central Government Health Scheme or those provided by the Sports Authority of India from time to time. Employees contribution will be determined in accordance with the rates prescribed by the Central Govt. in respect of their employees. The difference between the employee's contribution and the charge of the CGHS will be borne by the SAI.

xxx xxx xxx

(c) For the purpose of this Bye-Laws, "Family" includes only wife (or husband), dependent children or step children and dependent parents and no other relations such as married or widowed daughters."

9. Further it is seen from the counter of the respondents wherein it is specifically submitted that the services of the Serving Employees of the SAI are governed by the Service Bye-Laws and Condition of Service Regulations 1992. For Medical Reimbursement under the CCS (MA) Rules, SAI are presently providing medical facilities for treatment in any of the recognised hospital by the State Government/CGHS Rules/CS(MA) Rules, 1944 as well as at the hospital fully funded by either Central Government or State Government subject to the condition that the Medical Expenses will be reimbursed at rates fixed by the government under CGHS Rules/CS(MA) Rules, 1944 vide Rule No.11 of Medical Attendance Rules.

As regards for retired employees of the SAI, as is the case of Applicant, it is submitted that an amount of Rs.500/- as Medical Allowance is paid to each pensioner alongwith monthly pension.

10. In view of the foregoing, since the applicant is a retired employee and there are no rules covering such reimbursement, therefore, the claim for reimbursement cannot be given to the applicant and the OA is required to be rejected.

11. The matter has been heard at length. It is seen that the service conditions of SAI are silent in respect of the medical facilities for the retired employees except to the extent of granting a fixed medical allowance which admittedly had already been paid to the applicant. However, the same rules also contain para 44 wherein a provision is kept to follow the instructions as are applicable to Central Govt. Servants, if bye laws are silent. (Para 4 supra). Since the bye laws are silent on specific provision for reimbursement to retired employees, para 44 comes into effect. The judgment quoted by the applicant of the Hon'ble Delhi High Court in WP (C) No.1844/2011 is relevant considering that our country profess to be a Welfare State and medical benefits are need of the hour. The plea of the respondents that reimbursement can be considered for serving employees but not for retired employees, is beyond any logic as it is in old age that adverse medical conditions are more likely to arise, and therefore this plea cannot be accepted.

12. In the event, OA is allowed. Respondents are directed to consider the reimbursement claim of Rs.2,40,418/- as valid and process the same for reimbursement to the extent permissible as per the rates applicable in respect of serving employees of SAI. This exercise shall be completed within a time period of eight weeks from the date of receipt of this order.

13. MA No.4623/2017 has been filed for deletion of respondents no.3 & 4 from the array of parties. In view of the above orders passed in OA, this MA is dismissed as having become infructuous.

No order as to costs.

(Pradeep Kumar)
Member (A)

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