

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

ORIGINAL APPLICATION No.180/00016/2016

Tuesday this the 31st day of July, 2018

C O R A M :

***HON'BLE Mr.E.K. BHARAT BHUSHAN, ADMINISTRATIVE MEMBER
HON'BLE Mr.ASHISH KALIA, JUDICIAL MEMBER***

Muhammed Ali U.,
(Retired on 1/11/1983 as Assistant Fireman (Mech.),
'RYHAAN', P.O. West Ponnani,
Thalassery, Kannur District, Kerala : 670 641.
I.M. Section, Indian Ordnance Factories,
Gun Carriage Factory, Jabalpur (M.P.).

...Applicant

[By Advocate : Mr. E.S.Ashraf]

v e r s u s

1. The Union of India
Represented by its Secretary to Government of India, Ministry of Defence, New Delhi – 110003.
2. Senior General Manager,
Indian Ordnance Factories,
Gun Carriage Factory
Government of India,
Ministry of Defence,
Jabalpur 482011, Madhya Pradesh.

...Respondents

[By Advocate Mr.T.C.Krishna, Sr.PCGC]

This application having been finally heard on 30th July 2018 the Tribunal on 31st July 2018 delivered the following order :

O R D E R

Per: E.K. Bharat Bhushan, Administrative Member:

O.A. No. 180/00016/2018 is filed by Mr. Muhammed Ali U, former Assistant Fireman (Mech) at Gun Carriage Factory, Jabalpur who had voluntarily retired from service on 1.11.1983. He is aggrieved by the action on the part of respondent No.2 declining his claim for reimbursement of medical expenses for the reason that he is a pensioner and is thus not entitled for medical expenses' reimbursement. The impugned order is at Annexure A5.

2. By filing the O.A. the applicant seeks a direction to the respondents granting him his claim. He submits that he had to undergo treatment for cardiac problems at Malabar Institute of Medical Sciences Hospital at Calicut from 23/02/2015 to 25.2.2015 and from 1.3.2015 to 9/7/2015. The overall treatment had cost a sum of Rs.2,23,608/- . The claim he has raised and the discharge certificate of the concerned hospital are at Annexure A3 and A4 respectively.

3. The respondent No.2 had declined his claim on the ground that only employees in service are entitled for medical expenses reimbursement under CS(MA) Rules 1944. The applicant maintains that this view is contrary to the decision of the Ahmedabad Bench of C.A.T. In O.A. 369/2013. A copy of the said order is at Annexure A6.

4. The respondents have filed reply statement wherein the facts mentioned in the O.A. have been admitted. It is submitted that once a civilian employee working in Ordnance & Ordnance Equipment Factories gets superannuated or takes voluntary retirement, he and his her family is governed under Central Government Health Scheme (C.G.H.S) The Pensioner who want to avail the benefits of CGHS and are residing permanently at a place which is covered under CGHS have the option to get his name registered with any of the dispensaries mentioned in the city and accordingly they are entitled to get medical treatment from CGHS Dispensary or any hospital recognised under CGHS. The Pensioner who is not residing in areas covered by CGHS are entitled to medical allowance of Rs.500/- per month w.e.f 19.11.2014. Earlier it was Rs.100 per month. A copy of the O.M. Dated 19.12.1997 is at Annexure R.2(a). It is emphatically stated that pensioners do not fall within the ambit of Central Service (Medical Attendance) Rules 1944. It was due to this reason that the claim had been refused.

5. The applicant filed rejoinder disputing the averments made in the reply statement. It is argued that receiving fixed medical expenses @ Rs.100/- p.m. by Central Government Pensioners residing in area not covered under Central Government Health Scheme (CGHS) is distinct and has nothing to do with the claim for medical reimbursement by a pensioner like the applicant who had undergone heart surgery. The fixed medical allowance is only a grant for meeting day to day medical expenses and do not cover hospitalisation. The judgement at annexure A6 clearly talks about the right of a pensioner to avail treatment of his choice and the respondents were wrong in denying the claim of the applicant.

6. Additional reply statement was filed by the first respondent again reiterating the position that a retired (ex-civilian) employee has an option to get CGHS facilities on making a annual contribution at the prescribed rates or to make one time payment of the CGHS contribution in order to utilise the facilities under the scheme. For patients who do not reside in non CGHS areas pensioners who are enlisted under the Scheme can avail fixed medical allowance for OPD treatment and also obtain CGHS card from nearest CGHS covered city for inpatient treatment facilities. Again it is stated that Central Services (Medical Attendance) Rules 1944 apply only to civilian employees in service and not to pensioners.

7. The respondents have drawn our attention to Annexure R.2(B) which is a part of the Frequently Asked Questions (FAQ) No.64; the question “what facilities are available for pensioner in non CGHS area” is answered as follows:

“a. Pensioner residing in non-CGHS covered areas have the option to become CGHS beneficiary and avail CGHS facilities from the nearest CGHS covered city.

b. Pensioners residing in non-CGHS area have also the option to avail Fixed Medical Allowance of Rs.500/- per month and opt not to avail CGHS facility.

c. Pensioners residing in non-CGHS areas have also the option to avail Fixed Medical Allowance of Rs.500 per month for OPC treatment and obtain CGHS card from nearest CGHS covered city for inpatient facilities under CGHS. No OPD medicines shall be issued in such cases.

d. CGHS Pensioner beneficiaries (and their dependant and eligible family members) who are holding a valid CGHS Card and residing in non-CGHS area shall be eligible to obtain inpatient medical treatment and also follow up treatment from Govt. Hospitals/CS(MA)/ECHS approved hospitals on proper referral from CGHS dispensary and submit the medical reimbursement claim to the Addl. Director/Joint Director of CGHS of city where the CGHS card is registered.

ii. In case of medical emergency, treatment may be obtained from any hospital and medical claim shall be submitted to Assistant Director/Joint Director, CGHS of the concerned city.

iii. Reimbursement shall be limited to the CGHS rates of the city where the card is registered and as per the ceiling rates and ward entitlements or as per actual, whichever may be less.”

8. We have heard Mr. Biju, Advocate representing Mr. E.S.Ashraf, learned counsel for the applicant and Mr. T.C.Krishna, learned Sr.PCGC appearing for the respondents.

9. Admittedly, the applicant is an employee who had taken VRS in 1983. His claim involves the cost of treatment for cardiac care that he had to undergo in 2015. He had applied to his erstwhile employer viz. Ordnance and Ordnance and Equipment Factories coming under the Ministry of Defence Production, seeking reimbursement for his claim under CS (MA) Rules 1944. The aid claim was declined by the respondent No. That is the reason why the applicant has filed the O.A.

10. We have examined the admissibility of this claim with regard to the quoted C.S. (MA) Rules 1944. As mentioned in the impugned order at Annexure A5, it is seen that there is no provision for meeting the medical expenses for retired employees under the said rules. What is open for retired employees is the Central Government Health Scheme (CGHS). When we examine whether the CGH Scheme is available to pensioners of Ordnance and Ordnance Equipment Factories, we see that O.M. No.D12014/2/89-CGHS(P) dated 20.9.1991 issued by Ministry of Health and Family

Welfare has extended the same to beneficiaries of Ordnance and Ordnance Equipment Factories. Clearly the applicant in this O.A. is a member of the CGHS and is covered by the same as he admits receiving a fixed medical allowance every month which is a part of the scheme.

11. The applicant lives in a non CGHS area and claims the Fixed Medical Allowance as he does not live in a CGHS covered city. However, we notice that under the scheme there is a specific provision enabling a pensioner to obtain treatment in the case of an medical emergency in any other hospital and subsequently submit the medical claim to Assistant Director/Joint Director of CGHS of the concerned city. This would be the right course of action to be pursued by the applicant in this case is knock on the door of respondent No.2, who has no authority to meet his demand.

12. The applicant has referred to judgement of the Ahmedabad Bench of CAT wherein the issue of a retired employee who had suffered a heart attack and had to undergo a coronary by pass surgery on emergency basis, saw his claim for medical expenses rejected. The benefit sought for was ordered on the ground that the Central Services (Medical Attendance) Rules does not permit retired Government Officials from seeking the benefits. However, as we have explained above, there is a clear provision in C.G.H.S. to meet the contingency of emergency treatment. Accordingly, the applicant is directed to prefer the above medical claim for reimbursement before the Joint Director of C.G.H.S. of the State he resides in, viz. Kerala.

13. The judgments referred to by the learned Counsel for the applicant appear to address the very important issue of the need for the State to take care of persons who have retired from Govt. Service. We cannot but agree with the conclusins drawn in those orders.

14. Based on the facts before us, we do not feel that the applicant and other beneficiaries are deprived in any way in obtaining medical care because every possible contingency has been covered under the CGHS. On the basis of this reasoning, we come to the conclusion that the O.A. is devoid of merit and deserves to be dismissed. We proceed to do so and also direct that the applicant being enrolled under C.G.H.S. ought to file his application for medical reimbursement before the Joint Director, C.G.H.S., Thiruvananthapuram.

15. No order as to costs.

(Dated this the 31st day of July 2018)

ASHISH KALIA
JUDICIAL MEMBER

E.K.BHARAT BHUSHAN
ADMINISTRATIVE MEMBER

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LIST OF ANNEXURES FILED BY THE APPLICANT.

1. **Annexure A.1** : True copy of the proceedings dated 19.10.1983 accepting the voluntary retirement of the applicant.
2. **Annexure A.2** : True copy of the certificate issued to the applicant by the General Manager of the Gun Carriage Factory dated 31.10.1983.
3. **Annexure A.3** : True copy of the representation dated 23.09.2015.
4. **Annexure A.4** : True copy of the discharge summary dated 25.02.2015 issued by the MIMS Hospital, Calicut.
5. **Annexure A.5** : True copy of the communication dated 24.10.2015
6. **Annexure A.6** : True copy of the order in O.A.No.369/13 of the Central Administrative Tribunal, Ahamedabad Bench decided on 03.04.2014.

LIST OF ANNEXURES FILED BY THE RESPONDENTS

1. **Annexure R-2(A)** : True copy of Office Memorandum dated 19.12.1997.
2. **Annexure R-2(B)** : True copy of relevant extract of FAQ issued by CGHS.
