

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

**OA-3843/2016
MA-3425/2016**

Reserved on : 24.05.2018.

Pronounced on : 04.07.2018.

Hon'ble Ms. Praveen Mahajan, Member (A)

Sh. Suresh Kumar, 60 years
S/o Late Sh. Attar Singh,
Lohchab Villa,
Kh. No.-34/12, Gali No.14,
Sanjay Colony,
Safiyabad Road,
Narela, Delhi-110040.

.... Applicant

(through Sh. Iggo Chittiappa, Advocate)

Versus

Delhi Transport Corporation through
Its Chairperson,
DTC Head Quarters,
I.P. Estate,
New Delhi-110002.

.... Respondent

(through Sh. Umesh Joshi, Advocate)

O R D E R

Briefly stated, the facts of the current O.A. are that the applicant joined as Driver in Delhi Transport Corporation (DTC) on 29.12.1982. He retired on attaining the age of superannuation on 31.01.2015. On retirement, he was given the pension payment order on 17.09.2015 wherein the applicant was eligible to avail an amount

of Rs.6960/- as pension, which included medical allowance of Rs.300/-. On receiving the periodic pension amount and after learning about the Health Scheme which the respondent Corporation had adopted, as well as the Delhi Government Employees Health Scheme (henceforth referred as DGEHS), the applicant requested the DTC, in writing, to stop the medical allowance, which was being included in the pension amount @ Rs.300/- since he desired to avail the benefits covered under DGEHS. He received a communication dated 14.01.2016 wherein it was specifically mentioned by the Pension Cell that there is no provision in DTC to grant medical facility (DGEHS facility) to the retired employees. However, subsequently, vide a communication dated 21.01.2016, he was further informed that his request has been acceded to by the competent authority and the facility of medical allowance of Rs.300/- has been stopped from his monthly pension w.e.f. 01.01.2016.

2. The applicant submits that as on date he is neither receiving the medical allowance nor the medical facility as specified under the Scheme. Thereafter, the applicant made several requests to the respondents that such facility is being offered to retired employees in other organizations like Delhi Municipal Corporation etc. but his pleas fell on deaf ears. The applicant filed WP(C)-3215/2016 before the

Hon'ble High Court of Delhi, which was dismissed as withdrawn on 27.07.2016 holding that:-

"It is noted that the prayers are primarily directed against the Delhi Transport Corporation, which has been notified under Section 14 of the Administrative Tribunal Act and as such it is the CAT, which would have the jurisdiction to adjudicate the prayers as prayed for in the petition."

3. In support of the relief claimed, the applicant has relied on the decision of Hon'ble High Court of Delhi in the case of **President, CCRH Scientists Welfare Association and Anr. Vs. Union of India and Ors.**, 179(2011)DLT 21 wherein the following has been held:-

"Retired employees were generally older people and it is well-known that old people are more infirm and more frail in need of more medical benefits as compared to younger people and directed the respondents to extend the facilities of the CGHS to the retired employee, pensioners and family pensioners of the CCRH and NMML on the same terms as extended to retired employees, pensioners and family pensioners of the Government of India and its organisations."

4. Aggrieved by the action of the respondents, the applicant has filed the current O.A. seeking the following relief:-

- "(a) Quash the letter/order dated 14th January, 2016 issued by Respondent rejecting the application of the Applicant for availing benefits under Delhi Government Employees Health Scheme by the Applicant and his dependents.
- (b) Direct Respondent Corporation to provide comprehensive medical facility to the Applicant and his dependents on the pattern of Delhi Government Employees Health Scheme.
- (c) Any other order or direction which this Hon'ble Tribunal may deem fit and proper in the facts and circumstance of the present case."

5. Without disputing the facts of the case, the respondents in their counter, have stated that the present application is not maintainable as there is no cause of action against which the applicant can file the Original Application in CAT and this application is also hit by rule of estoppels. Since the applicant himself had asked for stoppage of medical allowance, he cannot now be permitted to seek the same benefit through this OA. The respondents aver that there is no provision for grant of medical facility to the employees of DTC after retirement. They, however, state that the medical allowance of the applicant can again be restored to him from the month of his written request to the DTC subject to submission of a certificate that he is not getting medical facility from any other source.

6. I have gone through the facts of the case and considered the rival submissions of the parties carefully.

7. The applicant, who retired as a driver from DTC requested the Corporation to stop his medical allowance of Rs.300/-, which was being included in his monthly pension every month. Instead, he requested that he be provided the medical facilities available under Delhi Government Employees Health Scheme for pensioners. In his request dated 05.01.2016, he also stated that he is ready to pay the required lump sum amount for the DGEHS facilities etc. The

respondents have rejected his request vide the impugned order dated 14.01.2016 stating that there is no provision in DTC to grant medical facility (FGEHS facilities/card) to the retired employees of DTC.

8. The O.M. dated 25.10.2007 issued by Department of Health & Family Welfare contains the provisions which govern the DGEHS. The Scheme came into existence sometime in 1997 and has undergone various revisions/amendments. The provisions of the Scheme, as mentioned in the aforementioned OM, clearly mention that the Health Scheme is for serving employees as well as pensioners of GNCTD. Some relevant portions of the Scheme as contained in the aforementioned O.M., are reproduced below:-

"1. **Adoption of CS(MA)/CGHS provisions under DGEHS:** It is decided that all CS(MA)/CGHS provisions be automatically adopted under DGEHS provision including prevailing CGHS ceilings rates for procedure and implants including ISM treatment rates. In case of cancer treatment/in private recognized hospitals, where there are no rates for cancer surgery/treatment applicable, nor major hospitals agreeing to CGHS rates, the provisions as applicable under CGHS/CSMA rules may be followed and for expeditions and smooth implementation Director Health Services is authorized to implement any such technical provisions.

2. **Membership issues:** The Scheme is kept open ended like CGHS i.e. the eligible Delhi Govt. pensioner may be allowed to join the DGEHS at any stage and the scheme may be kept open ended to enable the left over pensioners to avail the medical benefits of the scheme.

3. **Provision for subscription by Pensioners for lifelong benefit:** Hence forth the pensioner beneficiaries who have deposited a total of ten years of subscription may be allowed to avail benefits for lifelong basis on lines of CGHS. The subscription shall now be accepted in a block of 6 months (Jan to June and July to December) only on proratioa basis at concerned offices, from where the beneficiary is drawing the pensionary benefits as being

followed in CGHS, with the benefits applicable prospectively i.e. from date of deposition of subscription."

Subsequently, another O.M. dated 28.07.2010 was issued containing improvement in Delhi Govt. Employees Health Scheme (DGEHS). The same stipulates the following:-

"Sub: Improvement in Delhi Government Employees Health Scheme (DGEHS)"

A health scheme was formulated for serving employees/pensioners of Govt. of National Capital Territory of Delhi in 1997. The scheme was communicated vide letters no. F.No.27(9)/96-M & PH/dated 13th March 1997 & F.No. 27/9/97-H & FW/dated 26th September 1997. The Scheme has subsequently been revised vide OM No. F.342/81/2003/H & FW/3264 dated 6th October 2003 and Om No. F.342/126/2004/H & FW/7553-63 dated 21st February 2005 and no. F.342/52/200/H & FW/29609-29812 dated 25-1-2007.

Consequent to review and rationalization of different provisions and procedures of the Delhi Government Employees Health Scheme, the following provisions/medications in the Delhi Government Employees Health Scheme are notified for better implementation of the Scheme. This is regarding Delhi Govt. Employees Health Scheme Govt. of Delhi has approved following provisions for serving employees/offices/pensioners, sitting MLA as well as Ex-MLA of Delhi Legislative. The cabinet also decided that the monthly subscription would be at par with the rates followed under the Central Government Health Scheme. Cabinet further decided that hospitals empanelled under CGHS would be allowed for treatment outside Delhi. The subscription of DGEHS beneficiaries has been revised on the pattern of CGHS.

1. **Adoption of CS(MA)/CGHS provisions under DGEHS:** It is decided that all CS(MA)/CGHS provisions be automatically adopted under DGEHS provision including prevailing CGHS ceiling rates for procedure and implants including ISM treatment rates. In case of cancer treatment/in private recognized hospitals, where there are no rates for cancer surgery/treatment applicable, nor major hospitals agreeing to CGHS rates, the provisions as applicable under CGHS/CSMA rules may be followed and for expeditions and smooth implementation Director Health Services is authorized to implement any such technical provisions.
2. **Membership issues:** The scheme is kept open ended like CGHS i.e. the eligible Delhi Govt. pensioner may be allowed to join the DGEHS at any stage and the scheme may be kept open ended to enable the left over pensioners to avail the medical benefits of the scheme.
3. **Provision for subscription by Pensioners for lifelong benefit:** Hence forth the pensioner beneficiaries who have deposited a total of ten years of subscription may be allowed to avail benefits for lifelong basis on lines of CGHS. The subscription shall now be accepted in a block of 6 months (Jan to June and July to December) only on proratioa basis at concerned offices, from where the beneficiary) is drawing the pensionary benefits as being followed in CGHS, with the benefits applicable prospectively i.e. from date of deposition of subscription.
4. **Revision of Subscription:** The subscription of DGEHS has been revised on the basis of grade pay given below:

Grade pay to the beneficiary	Subscription under DGEHS per month	Subscription under CGHS per month
Rs.650	Rs.30	Rs.50

Rs.1800, 1900, 2000, 2400 and 2800	Rs.60	Rs.125
Rs.4200	Rs.100	Rs.225
Rs.4600, 4800, 5400 and 6600	Rs.150	Rs. 325
Rs.7600 and above	Rs.200	Rs.500

Hence, it is decided that a hospital may be recognized only for the specialties which are meeting the criteria. The list of hospitals recognized under DGEHS is not frequently changed as the hospitals are initially recognized for two years.

5. **Special provision for Ministers, MLAs and Senior Officers:**

5.1 It is also to do away with the need for authorization/permission for entitled treatment for self and dependent family members in private recognized hospitals as per provisions of scheme in regard of following categories of beneficiaries:

- I. Ministers of GNCT of Delhi
- II. Sitting MLAs of Delhi Legislative Assembly
- III. All head of the departments/Heads of the department/Heads of autonomous bodies under GNCT Delhi.
- IV. Senior officers i.e. IAS officers and Danics officers (JAG and above in the pre revised pay scale of Rs.12000-16550 corresponding to present grade pay of Rs.7600 & above or equivalent).

5.2 The above categories of beneficiaries have been allowed to undertake direct treatment as admissible under the provisions of the scheme as per entitlement from DGEHS empanelled private hospitals in the specialties the hospital is recognized for. The reimbursement in such cases shall be limited to DGEHS ceiling rates as per entitlement and only for the treatment admissible under CSMA rules/DGEHS.

It is also decided to cover only Senior officers i.e. IAS officers and Danics officers (JAG and above in the pre revised pay scale of Rs.12000-16500 corresponding to present grade pay of Rs.7600/- & above or equivalent).

5.3 Besides, ministers of GNCT of Delhi and sitting MLAs of Delhi Legislative Assembly shall be allowed treatment on cashless basis in empanelled private hospitals/diagnostic centres. The payment to empanelled hospitals/diagnostic centers for such cashless treatment shall continue to be made by GAD in case of Ministers and Delhi Legislative Assembly in case of sitting MLAs.

6. Special provisions for ex-MLAs: It is decided that ex-MLAs may be allowed to get direct treatment on advice of Government Doctor (Specialist consultation/test/procedures and indoor treatment) from private empanelled hospitals/diagnostic centres to ex MLAs may be on cashless basis under DGEHS on production of valid DGEHS Card as per entitlement. The Payment of the empanelled hospitals/Diagnostic centers for such cashless treatment shall continue to be made by Delhi Legislative Assembly.

7. **Special Provision for NCR and treatment outside Delhi:** A decision has also been taken for:-

7.1 Appoint AMA in NCR town authorized to treat and refer pensioner beneficiaries to Govt./CGHS recognized institutions for treatment as per provisions of CS(MA) rules

7.2 Enter into agreement with CGHS recognized centers in these areas as per DGEHS provisions and those not willing to enter into agreement be removed from list of recognized hospitals from NCR region, with agreements being entered by Director Health Services in this regard and

to empanel other private hospitals sing DGEHS approved criteria and terms and conditions of DGEHS.

7.3 To allow treatment in NCR region also go beneficiaries residing in Delhi also after permission from competent authority.

7.4 To allow reimbursement for treatment to beneficiaries even during non emergent conditions from government or government recognized hospitals.

8. DGEHS beneficiaries be allowed to avail medical facilities from more than one source including allowing for any such membership of other health scheme/insurance provided that the total reimbursement for entitled treatment does not exceed the total expenditure from all sources and the reimbursement from such government schemes does not exceed the DGEHS ceiling rates in regard of treatment as pr entitlement.

The above provisions will be applicable with immediate effect."

9. In view of the clear policy provisions governing DGEHS, it is not understood as to how the respondents have taken a view that there is no provision in DTC to grant medical facility to retired employees of DTC under the said Scheme when there is no such embargo in the Scheme itself. The benefit of the said Scheme has been provided by the Government of Delhi, to serving as well as retired employees of departments under the GNCTD. Hence, the so called policy of respondent No.2 of not including retired employees under the said Scheme is contrary to the very letter and spirit of the DGEHS. The respondent Corporation, is under the purview of the said Scheme, and it is not upto them to differentiate between the existing and retired employees since the Scheme provides medical benefits to both. In para-3 of their counter, the respondents have stated that provision of Delhi Government Health Scheme is not available/applicable in the respondent department. This suo-moto

stand taken by the respondents appears to be in total contradiction to the policy adopted by Delhi Government and hence is not tenable. Further, para-8 of the O.M. dated 28.07.2010, allows beneficiaries of the said Scheme to avail medical facilities from more than one source provided the total reimbursement for the entitled amount does not exceed the total expenditure from all the sources/DGEHS ceiling rate in regard to the treatment as per the entitlement of the employee.

10. In view of the aforementioned discussions, I have no hesitation in concluding that the stand taken by the respondents is unreasonable and arbitrary. Hence, the impugned order dated 14.01.2016 is quashed and set aside. The respondents are directed to examine the request of the applicant after taking into consideration the DGEHS Scheme, and the provisions contained in O.Ms dated 25.10.2007 and 28.07.2010 governing the DGEHS Scheme and consider issuing necessary facility to the applicant subject to the necessary riders mentioned therein. This exercise may be completed within four months from the date of issue of this order. The O.A. is accordingly allowed. No costs.

(Praveen Mahajan)
Member (A)

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