

CENTRAL ADMINISTRATIVE TRIBUNAL,  
CHANDIGARH BENCH

O.A.NO.060/00753/2018

Decided on: 17.10.2018

CORAM: **HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J) & HON'BLE MS. AJANTA DAYALAN, MEMBER (A)**

A.S. Bedi son of Shri Sant Singh Bedi, aged 85 years, Income Tax Officer, Group 'B' (Retired) resident of House No.282C, Urban Estate, Phase-I, Focal Point, Ludhiana (Punjab), Pin-141010.

Applicant

(By: **MR. MANOHAR LAL, ADVOCATE**)

Versus

1. Union of India through the Chairman, Central Board of Direct Taxes, North Block, Central Secretariat, New Delhi-PIN-110001.
2. Principal Commissioner of Income Tax, Aayakar Bhawan, Patiala-147001.
3. Zonal Accounts Officer, Aayakar Bhawan, Patiala-147001.

Respondents

(By: **MR. K.K.THAKUR, ADVOCATE**)**O R D E R (oral)****HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J)**

1. The applicant has filed this Original Application (OA) under section 19 of the Administrative Tribunals Act, 1985, for quashing the order / letter dated 3.7.2017 (Annexure A-1) vide which his claim for indoor treatment on three occasions in Christian Medical College & Hospital, Ludhiana, (a private Hospital), has been rejected on the ground that the Central Services (Medical Attendance) Rules, 1944, are not applicable to the retirees and for issuance of direction to the respondents to reimburse the amounts claimed by him.

2. The facts are largely not in dispute. The applicant, who is 85 years of age, had retired as Income Tax Officer and is settled at Patiala, Punjab, a non-CGHS area. He is getting fixed

medical allowance monthly for outdoor expenses. He was hospitalized in CMC, Ludhiana, three times. During first two admission, he underwent joint knee replacement and during 3<sup>rd</sup> time, he was admitted for heart and allied ailments for urgent management under emergency. He incurred a sum of Rs.1,48,402/-, Rs.1,53,407/- and Rs.78,037/-. His bills for Rs.2,99,883/- were approved and sent for payment but ultimately his claim was rejected vide impugned order, Annexure A-1, on the premise that CS (MA) Rules, 1944, do not apply to retired employees, despite judicial decisions to the contrary. Hence, the O.A.

3. The respondents have filed reply to resist the claim of the applicant. In nutshell, the stand taken by them is that CS (MA) Rules, 1944, do not apply to the retired employees. It is a policy decision to be taken by Government which has not been done till date. Unless rules are amended, the same cannot automatically be applied to the retirees.

4. When the matter was taken up for hearing today, learned counsel for the applicant vehemently argued that the objection raised by the respondents with regard to non-applicability of C.S.(M.A) Rules, 1944, to retirees has already been negated by this Court, and further the jurisdictional High Court has approved the view taken by this Court granting similar benefit to retirees like the applicant vide judgment dated 17.01.2018 in the case of **UNION OF INDIA & ORS. VS. MOHAN LAL GUPTA & ANOTHER**, 2018 (1) SCT 687. He further averred that since the issue has been settled up to the Hon'ble Supreme Court by dismissing the petition filed by Union of India

and upholding the order of the High Court, which has upheld view taken by this Court, therefore, respondents cannot deny the benefit to those retirees for getting medical reimbursement as an indoor patient, who are getting fixed medical allowance residing in non-CGHS area.

5. Learned counsel for the applicant also relied upon order of this Court in a bunch of cases, leading one being O.A. NO. 060/00396/2014 titled **YASH PAL BHAMBRI VS. UNION OF INDIA & OTHERS**, decided on 06.12.2014 and also a latest decision of this Court in O.A. NO. 060/00737/2017 and connected matters titled **DHARMINDER SHARMA VS. UNION OF INDIA & ORS. etc. etc.** rendered on 07.05.2018, wherein similar plea of the respondents has been rejected, in view of the ratio of law laid down by the Hon'ble Supreme Court in the case of **SHIVA KANT JHA VS. UNION OF INDIA**, W.P. (Civil) No. 695/2015 decided on 13.04.2018. Therefore, he prayed that the impugned order, Annexure A-1 be quashed and respondents be directed to reimburse the claim of the applicant, in the light of the latest judicial pronouncement of this Court. Learned counsel for the respondents was not able to cite any law contrary to the one pressed into service by learned counsel for the applicant.

6. After going through the pleadings available on record and on a thoughtful consideration of the matter, we are in agreement with the learned counsel for the applicant that his claim is squarely covered by the law laid down by this Court in the aforementioned decisions and by the Hon'ble Supreme Court in the case of **SHIVA KANT JHA** (supra). Even this Court recently delivered similar decision in the case **OF SITA DEVI VS. UNION**

**OF INDIA** on 09.07.2018, operative part of which is extracted hereunder:-

“In view of the above factual position and various judicial pronouncements, on the issue, in favour of the applicant, we set aside the impugned order (Annexure A- 7) and remit the matter back to the respondents, to re-consider the case of the applicant for medical reimbursement, in the light of the above noted judgments. Let the above exercise be carried out within a period of four weeks from the date of receipt of a certified copy of this order, and if the applicant is found entitled to the relevant benefits, the same be extended to her, within a period of one month thereafter, otherwise a reasoned and speaking order be passed. The order so passed be communicated to the applicant.”

7. In view of the aforesaid legal position that stand of the respondents qua non-applicability of CS (MA) Rules, 1944, to the retirees, has been negated, it is held in that the impugned order, Annexure A-1, cannot be sustained in the eyes of law and deserves to be quashed and set aside, being contrary to legal pronouncements.

8. In the wake of the aforesaid discussion, and for the parity of reasons given in indicated decisions, we are left with no other option but to allow this O.A. and quash the impugned order, Annexure A-1. The respondents are directed to reimburse the admissible amount of medical claim of the applicant within a month from the date of receipt of a certified copy of this order. No costs.

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

**(AJANTA DAYALAN)**  
**MEMBER (A)**

Place: Chandigarh.  
Dated: 17.10.2018

HC\*