

CENTRAL ADMINISTRATIVE TRIBUNAL,
CHANDIGARH BENCH

O.A.NO.060/00928/2018

Decided on: 15.10.2018

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

J. K. Kapoor son of Shri Muni Lal Kapoor, aged 78 years, Income Tax Officer, Group 'B' (Retired) resident of # 79-A, Old Mehar Singh Colony, Patiala-147001 (Punjab).

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-110001.
2. Principal Commissioner of Income Tax, Patiala-147001 (Punjab).
3. Assistant Commissioner of Income Tax, Mal Godown, Sangrur (Punjab)-148001.

Respondents

(By: **MR. K.K.THAKUR, ADVOCATE**)

OR 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 issuance of direction to the respondents to reimburse a sum of Rs.1,68,082/- incurred by him on bye-pass surgery from 17.8.2013 to 24.8.2013, at Fortis Hospital, which is being denied to him only on the ground that the Central Services (Medical Attendance) Rules, 1944, are not applicable to the retirees.

2. The facts are largely not in dispute. The applicant, who is 78 years of age, had retired as Income Tax Officer and is settled at Patiala, Punjab, a non-CGHS area. He became member of the CGHS in February, 2016. During visit to Fortis Hospital on

17.8.2013, he suffered chest pain and breathlessness and was admitted there and operated upon for bye-pass surgery and incurred a sum of Rs.1,68,082/-. He submitted bills and representations to the respondents to reimburse the same but the same have failed to evoke any response. Hence, the O.A.

3. Notice of motion was issued on 9.8.2018 and respondents were granted four weeks time to file reply. Again additional 3 weeks' time was allowed to the respondents for the same purpose on 13.9.2018. Today also, respondents have not filed reply.

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 further relied upon order of this Court in a bunch of cases, leading one being O.A. NO. 060/00396/2014

titld **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 titld **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 respondents be directed to re-consider his claim, 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 the wake of the above position under the law and for the parity of reasons given in indicated decisions, we are left with no other option but to allow this O.A. and direct the respondents 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: 15.10.2018

HC*

