

**CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR**

ORIGINAL APPLICATION NO. 291/717/2016

Reserved on 16.05.2018

DATE OF ORDER: 21.05.2018

CORAM

HON'BLE MR. SURESH KUMAR MONGA, JUDICIAL MEMBER

B.L. Verma S/o late Shri Raja Ram, aged about 69 years, R/o Samadhan, Mandola Ward, Baran (Rajasthan) and retired on 31.07.2007 from the post of Director Postal Services, Aurangabad Office of Post Master General, Aurangabad Region, Aurangabad (Maharashtra).

....Applicant

Mr. C.B. Sharma, counsel for applicant.

VERSUS

1. Union of India through its Secretary, Department of Posts, Ministry of Communication and Information Technology, Dak Bhawan, New Delhi – 110001.
2. Chief Post Master General, Maharashtra Circle, Mumbai.
3. Post Master General, Aurangabad Region, Aurangabad (Maharashtra) – 431002.

....Respondents

Mr. V.D. Sharma, proxy counsel for
Mr. Rajendra Vaish, counsel for respondents.

ORDER

The pleaded case of the applicant herein is that he retired as Director Postal Services on 31.07.2007 and is in receipt of pension from Central Government. At present he is residing at his native place i.e. Baran (Rajasthan). Because of his heart ailment, he was admitted in Government Hospital, Baran on 26.02.2016 and after providing first-aid, the doctors advised and referred him for treatment in a higher center. Accordingly, the family members of the applicant got him admitted in Kota Heart Institute and Research Centre, Kota where he remained

admitted as indoor patient from 26.02.2016 to 02.03.2016 and an expenditure of Rs. 2,74,287/- was incurred during the said hospitalization. The applicant submitted his medical bills with the respondents for reimbursement on 09.05.2016. The respondent no. 3 rejected the said claim of the applicant with the observation that the Central Services (Medical Attendance) Rules, 1944 (hereinafter called as '1944 Rules') do not apply to retired Government officials. It has further been pleaded that the applicant is running in the age of 69 years and he took the treatment as indoor patient in Kota Heart Institute and Research Centre, Kota in emergency to save his life. It has further been averred that the said hospital is also recognized by CGHS/State Government/Railways. Besides this, at Baran, there is no medical facility and respondent-department is only providing Rs. 500/- per month towards outdoor treatment, which is not for the purpose of indoor treatment. With all these assertions, it has been pleaded by the applicant that the respondents have illegally and arbitrarily declined his claim for medical reimbursement. Aggrieved by the action of the respondents declining the reimbursement of his medical bills, the applicant has invoked the jurisdiction of this Tribunal under Section 19 of the Administrative Tribunals Act, 1985.

2. The respondents by way of filing a joint reply have joined the defence and opposed the claim of the applicant. It has been pleaded that the applicant preferred a claim for reimbursement of medical expenses of Rs. 2,74,287/- through Postmaster, Baran on 09.05.2016. His claim was scrutinized and settled by respondent no. 3 and vide letter dated 28.06.2016, he was intimated that as per Rule 1(2), Note 2 (iv) of CS (MA) Rules,

1944, the medical attendance Rules are not applicable to retired officials and, therefore, the competent authority has not approved the applicant's medical bills. It has further been pleaded that instead of approaching the Government MBS Hospital, Kota, the applicant preferred to move to a private hospital where treatment is on payment. Knowing fully well of the consequences in respect of reimbursement of medical expenses, he has chosen himself to be treated in a private hospital and deliberately ignored the free treatment by Government Senior Specialized Heart Doctors at Government MBS Hospital, Kota. It has further been averred that the hospital in which the applicant has taken the treatment, is recognized by CGHS/State Government/Railways or not is irrelevant. Being a retired official, the applicant is paid a fixed medical allowance @ 500/- per month. The claim of the applicant is against the policy of the Government. With all these assertions, the respondents have prayed for dismissal of the O.A.

3. Heard learned counsels for the parties.

4. Learned counsel for the applicant submitted that the applicant had taken the treatment from Kota Heart Institute and Research Centre, Kota in an emergent condition and his medical claim has been declined arbitrarily despite the fact that the '1944 Rules' are fully applicable upon the retired Government servants as held by this Tribunal in various judgments. He further contended that Ahmedabad Bench of this Tribunal has already held that '1944 Rules' are applicable to retired Government officials. The judgment of the Ahmedabad Bench of this Tribunal has been affirmed until the level of the Hon'ble Supreme Court.

He further argued that this Bench of the Tribunal has also taken the similar view in the case of Ram Swarup Gupta (OA No. 786/2012). It was the contention of the learned counsel that the applicant cannot be treated differently and he is entitled to get reimbursement of his medical bills.

5. Per contra, learned counsel for the respondents contended that the applicant is getting fixed medical allowance @ Rs. 500/- per month and, therefore, he cannot claim the reimbursement of medical bills under the provisions of '1944 Rules'. He further argued that '1944 Rules' are not applicable to retired Government servants and the applicant's claim for medical reimbursement has been rightly declined by the respondents vide communication dated 28.06.2016 (Annexure A/1).

6. Considered the rival contentions of learned counsels for the parties and perused the record.

7. There is no dispute with regard to the fact that the applicant has taken the treatment for his heart ailment from Kota Heart Institute and Research Centre, Kota. The fact with regard to the said hospital being recognized by CGHS has not been disputed by the respondents. The applicant, who was initially taken to a Government Hospital, was referred to the higher centre in an emergent condition. The applicant's family members got him admitted in Kota Heart Institute and Research Centre, Kota where he remained admitted as an indoor patient from 26.02.2016 to 02.03.2016. The expenditure of Rs. 2,74,287/- towards said hospitalization has not been disputed by the respondents.

8. The controversy with regard to applicability of '1944 Rules' upon retirees of Postal Department has already been set at rest. The view taken by the Ahmedabad Bench of this Tribunal in this regard has already been affirmed by the Hon'ble Supreme Court, which has been followed later on by this Bench of the Tribunal in the case of Ram Swarup Gupta (OA No. 786/2012) decided on 27.08.2013 and Ramji Lal Sharma vs. UOI & Ors. (OA No. 657/2016) decided on 22.11.2017. There is no reason with the respondents to treat the applicant differently.

9. Recently, in the case of Shiva Kant Jha vs. Union of India [Writ Petition (Civil) No. 694/2015, decided on 13th April, 2018], the Hon'ble Supreme Court has held that the Government employee during his life time or after his retirement is entitled to get the benefit of the medical facilities and no fetters can be placed on his rights.

10. In the conspectus of discussions made in the foregoing paras, the instant Original Application is allowed and the order dated 28.06.2016 (Annexure A/1) is hereby quashed. The respondents are directed to consider the applicant's claim for reimbursement of his medical bills in accordance with the provisions of Central Services (Medical Attendance) Rules, 1944. The respondents are further directed to complete the whole exercise within a period of three months from the date of receipt of a copy of this order. However, there shall be no order as to costs.

**(SURESH KUMAR MONGA)
JUDICIAL MEMBER**

Kumawat