

**CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR**

ORIGINAL APPLICATION NO. 291/846/2016

DATE OF ORDER: 17.04.2018

CORAM

HON'BLE MR. SURESH KUMAR MONGA, JUDICIAL MEMBER

Chhitar Lal Mahawar S/o late Shri Shiv Ram Mahawar, aged about 68 years, resident of Near Kanak School, Astal Road, Chawani, Tonk (at present at 3-MA 1-GN, Jagatpura, Jaipur) and retired on 31/08/2008 from the post of Assistant Post Master, Tonk Head Post Office, Tonk.

....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, Rajasthan Circle, Sardar Patel Marg, Jaipur-302007.
3. Post Master General, Rajasthan Southern Region, Ajmer – 305001.
4. Superintendent of Post Offices, Tonk Postal Division, Tonk – 304001.

....Respondents

Mr. N.C. Goyal, counsel for respondents.

ORDER

The pleaded case of the applicant herein is that after attaining the age of superannuation, he retired on 31.08.2008 as Assistant Post Master. He suffered from an unbearable chest pain on 12.09.2016 and his family members got him admitted in Narayana Hrudayalaya Limited, Multi Speciality Hospital, Pratap Nagar, Jaipur wherein he remained admitted as an indoor patient from 12.09.2016 to 15.09.2016 and a procedure to insert two Stents in blocked blood vessels of heart was undertaken. He incurred an expenditure of Rs. 1,56,170/- towards the said

treatment and submitted his medical claim with respondent no. 4 on 30.09.2016. He again made a request on 07th November, 2016 to respondent no. 4 to accord sanction to his medical claim but he was informed that the matter has been referred to respondent no. 3 for his guidance and necessary directions in spite of the fact that the respondent no. 4 himself was a competent authority to settle the claim. It has further been pleaded that the medical claim of the applicant has not been entertained on the ground that the Central Services (Medical Attendance) Rules, 1944 (hereinafter called as '1944 Rules') are not applicable to retired employees. Whereas, the Ahmedabad Bench of this Tribunal has already taken a view that '1944 Rules' are applicable to the retirees also. The judgment of the Ahmedabad Bench of this Tribunal has been affirmed upto the level of the Hon'ble Supreme Court. The applicant has further asserted that the treatment was taken by him in an emergent condition and there was no option but to approach a suitable hospital to save his life. Aggrieved by the inaction on the part of the respondents, the jurisdiction of this Tribunal has been invoked by the applicant 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, primarily on the ground that the applicant did not submit his medical reimbursement claim for the treatment taken by him at Narayana Hrudayalaya Limited, Multi Speciality Hospital, Pratap Nagar, Jaipur. He only submitted a request/application informing about the treatment and expenditure incurred by him. He requested for sanction of the claim instead of submitting the

medical reimbursement bills. His request was received in the office on 03rd October, 2016 and the same was forwarded to the Post Master General, Rajasthan Southern Region, Ajmer for providing further guidance and direction. It is the case of the respondents that the medical reimbursement request cannot be entertained like medical reimbursement claim. It has further been pleaded that as per '1944 Rules', retired Government servants are not entitled for medical reimbursement. The applicant is residing in a non-CGHS covered area and, therefore, fixed medical allowance of Rs. 100/- per month till 25.05.2010, Rs. 300/- per month from 26.05.2010 to 18.11.2014 and Rs. 500/- per month from 19.11.2014 to till day has been paid to him continuously to meet with day to day medical expenditure. The applicant again submitted a request for medical claim on 19.11.2016. However, the office has not received any claim regarding medical reimbursement of the applicant. Hence, the question of settling the medical reimbursement claim does not arise. With all these pleadings, the prayer for dismissal of the O.A. has been made.

3. Heard learned counsel for the parties.

4. Learned counsel for the applicant submitted that the applicant had taken the treatment from Narayana Hrudayalaya Limited, Multi Speciality Hospital, Pratap Nagar, Jaipur in an emergent condition. His medical claim has been unnecessarily kept pending. The applicant, who is a retiree, is being harassed unnecessarily despite the fact that the '1944 Rules' are fully applicable upon retired Government servants as held by this Tribunal in various judgments.

5. Per contra, learned counsel for the respondents argued that the applicant did not submit his medical bills along with the request laying down the claim for reimbursement of his expenditure incurred by him while getting treatment from Narayana Hrudayalaya Limited, Multi Speciality Hospital, Pratap Nagar, Jaipur. He further argued that the '1944 Rules' are not applicable to retired Government servants. Learned counsel further submitted that the respondents are not averse to the applicant's claim for reimbursement of his medical bills and in case he submits the medical reimbursement claim along with the complete bills of the hospital, the same will be considered by the respondents.

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 had taken the treatment for his heart ailment from Narayana Hrudayalaya Limited, Multi Speciality Hospital, Pratap Nagar, Jaipur in an emergent condition. The applicant remained admitted as an indoor patient from 12.09.2016 to 15.09.2016. 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 later on followed 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. The applicant cannot be treated differently by the respondents.

8. 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.

9. Since a categorical case has been set up by the respondents that the applicant has not submitted his claim for medical reimbursement along with the hospital bills, therefore, it is considered appropriate to dispose of the instant Original Application with a direction to the respondents that in case the applicant now submits his claim for medical reimbursement along with the hospital bills and all other requisite documents within a period of two months, the same shall be considered by the respondents in the light of the judgments, as discussed above, wherein it has already been held that the CS (MA) Rules, 1944 are applicable upon the retired Government employees also and in case the medical bills submitted by the respondents are found in order, his claim shall be reimbursed within a period of two months thereafter.

10. Ordered accordingly. However, there shall be no order as to costs.

**(SURESH KUMAR MONGA)
JUDICIAL MEMBER**

Kumawat