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CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

ORIGINAL APPLICATION NO. 291/02/2017

Order Reserved on: 15.03.2018

DATE OF ORDER: 21.03.2018

CORAM

HON'BLE MR. SURESH KUMAR MONGA, JUDICIAL MEMBER

Gaffur Mohammad S/o late Shri Asgar Ali, aged about 67 years, R/o House No. 8, Bharat Vihar, Bajrang Nagar, Kota. Retired on 31.03.2009 from the post of Postman, Kota City Post Office, Kota Postal Division, Kota.

....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-302001.
3. Post Master General, Rajasthan Southern Region, Ajmer - 305001.
4. Senior Superintendent of Post Offices, Kota Postal Division, Kota - 324001.

....Respondents

Mr. Rajendra Vaish, counsel for respondents.

ORDER

The pleaded case of the applicant is that after attaining the age of superannuation, he retired on 31.03.2009 as Postman from the postal department. His wife suffered from severe heart pain and she was got admitted in Kota Heart Institute & Research Centre, Kota where after various investigations she had undergone a procedure of coronary angioplasty. She remained admitted in the said hospital as an indoor patient from 14.10.2016 to 19.10.2016 and incurred an expenditure to the tune of Rs. 2,10,040.75. The applicant submitted the medical bills for reimbursement before respondent no. 4 on 06.12.2016. However, the respondent no. 4 rejected the said claim vide letter dated 21.12.2016 on the ground

that there is no provision for allowing reimbursement to pensioners. It has further been pleaded that in similar matters Ahmedabad Bench of this Tribunal has already held that the provisions of CS (MA) Rules, 1944 are applicable to the retirees and the said judgment was challenged upto the level of Hon'ble Supreme Court and the same has been affirmed. Apart from this, the Principal Bench of this Tribunal in the case of Chander Shil Bhatia (OA No. 1988/2004) decided on 06.09.2005 directed the respondents to reimburse the medical claim. Even in the case of Ram Swarup Gupta (OA No. 786/2012) decided on 27.08.2013 by this Bench of the Tribunal, has held that the retired Government servants of the Department of Posts and Telecom are entitled for the reimbursement of their medical claims. Ignoring all these cases, the medical reimbursement to applicant for the treatment taken by his wife has been declined.

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 as per Rule 1 Note 2 (iv) of CS (MA) Rules, 1944, retired Government servants are not entitled for medical reimbursement. It has further been averred that the hospital from which the treatment was taken by the applicant's wife is not approved by CGHS as well as by the Department of Posts. Since the hospital was a private hospital, therefore, the respondent no. 4 was not competent to reimburse the claim. Therefore, the claim was not allowed and the same was filed, but was not rejected. It has further been asserted that the applicant was informed accordingly in due course by respondent no. 4 vide letter dated 20/21.12.2016 advising him to prefer his claim before the competent authority i.e. HOD as per Rule 4 (b) (2) of Appendix VIII of CS (MA) Rules, 1944. It has further been pleaded by the respondents that the applicant being a postal card holder has been taking treatment from Postal Dispensary, Kota and, therefore, his wife cannot take treatment in the hospital not recognized by CGHS without being referred by the Medical Officer of the Postal Dispensary, Kota. With all these pleadings, prayer for dismissal of the O.A. has been made.

3. Heard learned counsel for the parties.

4. Learned counsel for the applicant at the very outset contended that the matter is no longer res integra as the Ahmedabad Bench of this Tribunal has already held that the Central Services (Medical Attendance) Rules, 1944 are applicable to the retired Government officials. The said judgment has been affirmed upto the level of Hon'ble Supreme Court. He further contended that this Bench of the Tribunal has also taken the similar view in the case of Ram Swarup Gupta (OA No. 786/2012). Therefore, the applicant cannot be treated differently and he is entitled to get reimbursement of medical expenditure of his wife.

5. Per contra, learned counsel for the respondents contended that the applicant is a holder of medical card of Postal Dispensary, Kota and, therefore, he cannot claim the reimbursement of medical bills under the provisions of CS (MA) Rules, 1944. Apart from this, the hospital from where the applicant's wife has taken the treatment is not recognized by CGHS and, therefore, the O.A. deserves to be dismissed.

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

7. There is no dispute with regard to the fact that the applicant's wife had suffered from heart ailment and she was taken to Kota Heart Institute & Research Centre, Kota in an emergent condition where she remained admitted as an indoor patient from 14.10.2016 to 19.10.2016. The expenditure incurred by the applicant to the tune of Rs. 2,10,040.75 is also not in dispute. The controversy with regard to applicability of Central Services (Medical Attendance) Rules, 1944 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 herein cannot be treated differently by the respondents and, therefore, he is entitled to get his medical bills reimbursed in accordance with the provision of Central Services (Medical Attendance) Rules, 1944.

8. So far as the plea of the learned counsel for the respondents that Kota Heart Institute & Research Centre, Kota is not recognized by CGHS and, therefore, the applicant is not entitled to get medical bills reimbursed is concerned, I do not find any merit in the said argument. The fact with regard to the heart ailment of the applicant's wife is not in dispute and she was taken to Kota Heart Institute & Research Centre, Kota in an emergent condition. The condition in which the applicant's wife was taken to hospital, at that time a prudent man can only think about the saving of patient's life and not about the recognition of the hospital by the CGHS. Since the treatment of the applicant's wife in emergent condition is not in dispute, therefore, the applicant can be held entitled to reimbursement of her medical bills at CGHS rates.

9. In the conspectus of discussions made in the foregoing paras, the Original Application stands allowed and the order dated 20/21.12.2016 (Annexure A/1) is hereby quashed. The respondents are directed to consider the claim of the applicant for reimbursement of medical bills of his wife 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