

Reserved

CENTRAL ADMINISTRATIVE TRIBUNAL,

ALLAHABAD BENCH, ALLAHABAD

Allahabad, this the 23th day of January, 2019

Present:

Hon'ble Mr. Rakesh Sagar Jain – Member (J)

Original Application No. 330/00267/2016
(U/S 19 Administrative Tribunals Act, 1985)

Indra Sen, A/a 64 years,
S/o Sri Anantu,
R/o House No. 3/55, Som Nath Ka Hata,
Parmat Kanpur, District – Kanpur Nagar.

By Advocates – Shri A. K. Srivastav

VERSUS

1. Union of India through General Manager, North Central Railway, Subedarganj, Allahabad.
2. Divisional Railway Manager, North Central Railway, Allahabad Division, Allahabad.
3. Senior Divisional Personnel Officer, North Central Railway, Allahabad Division, Allahabad.

.....Respondents.

By Advocate : Shri Chandra Shekhar Rai

ORDER

1. The present O.A. has been filed under Section 19 of Central Administrative Tribunals, Act. 1985 by applicant Indra Sen seeking the following reliefs:-

8.1 to issue writ, order or direction in the nature of Certiorari Commanding the respondents to quash the

impugned order dated 31.12.2015 (Contained as Annexure No. A-1 to Compilation No. I of the Original Application).

8.2 to issue order or direction in the nature of mandamus directing the respondents to pay the medical allowances admissible to the applicant from Rs. 100/- per month w.e.f. 06.06.2006 to 31.08.2008 and Rs. 300/- w.e.f. 01.09.2008 to 18.11.2014 and @ Rs. 500/- P.M. from 19.11.2014 to till date along with its arrears with interest.

8.3 to issue any other suitable writ, order or direction as this Hon'ble Tribunal may deem fit and proper under the facts and circumstances of the case.

8.4 to award the costs of the application in favour of the applicant.

2. Heard counsel for the parties and gone through the material on record as well as written submission filed by the respondents.
3. Case of applicant is that the respondents have denied the grant of medical allowances to which he is entitled upon his retirement on 30.06.2011 though persons like Smt. Dhanwanti Devi and Smt. Mithilesh Kumari were given medical allowances under similar circumstances. The medical allowance is admissible to him since he is residing in remote area as per the OM dated 19.11.2014. His representation for grant of fixed medical allowance was rejected by respondents by their order No. 769E-2/Pension/July-2005 dated 31.12.2015.
4. Before proceeding further, reference may be made to the relevant portion of the impugned order dated 31.12.2015 which reads as under:

"I have carefully gone through the points brought out by you in your presentation dated 03.11.2014, the Hon'ble CAT/ALD's orders dated 09.10.2015 in OA No. 330/01380/2015, the facts of the case placed before me, the rules governing RELHS and my observations are as under:-

- a) You had retired from railway service on attaining the age of superannuation on 30.06/2011. At the time of your retirement, you had given option for availing OPD medical facilities from Railway Hospital/Health Unit/Lock-up-dispensaries.**
- b) As per Rly rules, the fixed medical allowance is admissible to only those retired employees who have opted out for OPD medical facilities and are residing beyond 2.5 Kms from the nearest Railway Hospital/Health Unit/Lock-up-dispensaries.**
- c) As per Railway Board instructions in their letter No. 97/H/28/1 dated 23.10.1997, the option exercised once under RELHS-97 scheme will be treated as final. Further, Railway Board in para 4 of their letter No. PC-V/167, PC-1/98/1/7/1/1 dated 21.04.1999 has made it quite clear that "Existing pensioners as well as the future retirees shall have to exercise one time option to avail of medical facilities at OPD of Railway Hospitals or to claim fixed medical allowance".**
- d) You have opted for OPD medical facilities as per the option given by you, copy enclosed; hence, you are not entitled for fixed medical allowance. More so, the option once exercised as per Board's instructions will be treated as final and cannot be changed.**

This disposes of your representation dated 03.11.2014."

5. In the counter affidavit filed by the respondents it has been averred that applicant had given his onetime option of availing OPD medical facilities, as per, his undertaking and option dated 09.06.2011 (Annexure R-2) which option was exercised by the applicant as per letter No. PC-V/167, PC-1/98/1/7/1/1 dated 21.04.1999 issued by the Railway Board, as such, the O.A. being meritless deserves to be dismissed.
6. Applicant has placed on record photocopy of his option form which is countersigned by a Railway Authority and submitted that he had opted for fixed medical allowance. On the other hand, respondents have placed on record photocopy of the option given by the applicant

wherein he had given the option of OPD medical facility from Railway Hospital. In the counter affidavit nothing has been mentioned about the photocopy of the option form (Annexure A-6 of the O.A.) filed by the applicant for grant of fixed medical allowance. Respondents have also denied the allegation of applicant regarding grant of medical allowance to the persons named in paragraph 5.5 of the O.A. in similar circumstances.

7. In view of the circumstances coming out in the pleadings of the parties, O.A. is disposed of with the direction to respondent No. 2 to reconsider the representation of the applicant afresh by keeping in view the option form (Annexure A-6 of the O.A.) filed by the applicant and as also the averment that similarly situated persons have been given fixed medical allowance by the respondents. This would necessarily also involve the question to be gone into by respondent No. 2 to see whether the option form (Annexure A-6) is a genuine or a forged document. Consequently, the impugned order dated 31.12.2015 passed by respondent No. 2 is set aside. Needless to say that the representation of the applicant shall be disposed of by a speaking and reasoned order by respondent No. 2 within a period of three months from the date of receipt of certified copy of this order. The order so, passed by respondent No. 2 shall be communicated to the applicant.
8. O.A. is accordingly disposed of. No order to costs.

**(RAKESH SAGAR JAIN)
MEMBER (J)**

/Shashi/