

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

...
ORIGINAL APPLICATION NO.060/00905/2018

Chandigarh, this the 13th day of March, 2019

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

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Smt. Kamlesh Garg wife of Shri Jai Bhagwan Garg, aged 59 years,
Sub Postmaster Group 'C' (Retired) resident of # 178, Sector 19,
Part -I. HUDA, Kaithal – 136027 (Haryana)

....Applicant

(Present: Mr. Manohar Lal, Advocate)

Versus

1. Union of India through Secretary, Ministry of Telecommunication and Information Technology, Department of Posts, Dak Bhawan, New Delhi – 110001.
2. Principal Chief Postmaster General, Haryana Circle, Ambala Cantt – 1330001 (Haryana)
3. Superintendent of Post Offices, Kurukshetra Division, Kurukshetra – 136118 (Haryana)

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Respondents

(Present: Mr. V.K. Arya, Advocate)

ORDER (Oral)

SANJEEV KAUSHIK, MEMBER (J)

1. The applicant is aggrieved against the order dated 06.06.2018 (Annexure A-1) whereby her claim for medical reimbursement of Rs.3,01,344.78 has been rejected.
2. Applicant, who voluntarily retired on 30.10.2017 while working as Sub Postmaster in Kaithal Post Office under the control of Respondent No. 3., settled at Kaithal, which is not covered under CGHS. Therefore, since the area where she was residing, did not come under CGHS, therefore, she was covered CS (MA) Rules, 1944 for medical facilities and she is drawing fixed medical allowance.

3. On 08.02.2018, the dependant husband of the applicant suffered paralytic attack and was rushed to PGI. Finding no medical help due to heavy rush there, her husband was taken to Alchemis Hospital, Panchkula, which is empanelled under CGHS. He remained under treatment there up to 04.03.2018 and an amount of Rs.5,21,054.78 was incurred on his treatment. Then he was shifted to less expensive hospital named Dhawan Hospital, Panchkula and there he remained up to 11.03.2018 and a sum of Rs.80230 was incurred as medical expenses. Out of total amount of Rs. 601344.78 incurred towards medical expenses for treatment of her husband, the amount of Rs.3 lakh was borne by New India Insurance Company from where his son got medi claim policy. For the balance amount of Rs.3,01,344.78, the applicant submitted her claim to the respondents for reimbursement, which has been turned down vide impugned order dated 06.06.2018 (Annexure A-1) on the plea that CS (MA) Rules, 1944 are not applicable to the pensioners. Hence the O.A.

4. Learned counsel for the applicant vehemently argued that the view taken by the respondents negating the claim of the applicant for medical reimbursement on the ground of pensioners being not covered under CS (MA) Rules, 1944 has already been invalidated by this Court, and affirmed by the Hon'ble Jurisdictional High Court, in the case of **Union of India & Others Vs. Mohan Lal Gupta & Another** as reported in 2018 (1) SCT 686. Therefore, he prayed that the impugned order be set aside and the matter be remitted back to the respondents for reimbursement of the balance amount of Rs.3,01,344.78 out of Rs. 6,01,344.78, as the Insurance

company had borne the expenditure of Rs.3 Lakh. In this regard, he has placed reliance upon a judgment of the Hon'ble High Court in the case of **Som Nath Sachdeva Vs. H.V.P.N. Ltd. And another** (CWP No. 12323 of 2007 decided on 04.09.2008).

5. By filing written statement, the respondents have resisted the claim of the applicant on the ground that the pensioners are not covered under CS (MA) Rules, 1944.

6. We have given our thoughtful consideration to the matter.

7. The two questions that arise herein for determination are as under:-

- (i) Whether the amount of medical expenses borne by the Insurance Company is to be deducted from the admissible amount for reimbursement to the employee?
- (ii) Whether a claim for medical reimbursement can be denied on the ground that the pensioners are not covered under CS (MA) Rules, 1944?

8. This Court has already settled the second issue in the case of Mohan Lal Gupta (supra), affirmed by the Hon'ble High Court. Therefore the second issue in question is answered in negative. The first issue has also been settled by the Hon'ble High Court in the case of Somnath Sachdeva (supra) wherein it has been held that the amount paid under the insurance policy would not, be deductible from the amount payable by the respondent department. However, it would be subject to the condition that both the amount if clubbed together would not exceed the total bill. This judgment has been followed by this Court in the case of **Harcharan Singh Vs. UT Chandigarh & Another** (O.A. NO.

060/00910/2016 decided on 28.02.2017), directing the respondents to disburse the remaining amount. Therefore, the first issue also stands answered in favour of the applicant.

9. The respondents have not taken the objection of the disbursement of amount by the Insurance Company and rejected the claim of the applicant on the solitary ground of her being pensioner and thus not covered under CS (MA) Rules, 1944, which has already been invalidated by this Court in the case of Mohan Lal Gupta (supra), as further upheld by the Hon'ble High Court. Therefore, the impugned order (Annexure A-1) is quashed and set aside.

10. Accordingly, the O.A. is allowed. The matter is remitted back to the respondents to reimburse the admissible balance amount to the applicant within a period of one month from the date of receipt of copy of this order.

(P. GOPINATH)
MEMBER (A)

(SANJEEV KAUSHIK)
MEMBER (J)

Dated: 13.03.2019

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