

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O.A.No.260/00517 of 2018

Cuttack this the 24th day of December, 2018

CORAM:

HON'BLE SHRI G.C.PATI, MEMBER(A)
HON'BLE SHRI S.K.MISHRA, MEMBER(J)

Sri Nirab Chandra Das, aged about 66 years, S/o. Late Pirata Das, permanent resident of Vill. Padma Kesharipur, PO-Kalarahanga, PS-Mancheswar, Dist-Khurda and retired on superannuation as MTS/Non-Tech., Survey of India, Odisha G.D.C., Bhubaneswar.

...Applicant

By the Advocate(s)-M/s.S.K.Ojha
S.K.Nayak

-VERSUS-

Union of India represented through:

1. The Secretary to Government of India, Ministry of Science & Technology, Technology Bhawan, New Deharauli Road, New Delhi-110 016.
2. The Surveyor General of India, Surveyor General's Office, Hathibarkala Estate, Post Box No.37, Dehradun, Uttarakhand-248 001.
3. The Director, Survey of India, Odisha, G.D.C., Survey Bhawan, Bhubaneswar-13.
4. The Establishment & Accounts Officer in the office of the Director, Survey of India, Odisha, G.D.C., Survey Bhawan, Bhubaneswar-13.

...Respondents

By the Advocate (s)-Mr.M.R.Mohanty
ORDER

S.K.MISHRA, MEMBER(J):

Applicant while working as M.T.S. under the respondent-organization retired on superannuation on 31.10.2013. His grievance in the present Original Application is directed against non-sanction of Fixed Medical Allowance. Hence, in this Original Application under Section 19 of the A.T.Act, 1985, he has prayed for the following reliefs:

- i) To admit this OA and call for the records.
- ii) To quash the office communication dated 29.08.2018 (Annex.A/7) holding the same as illegal, arbitrary and outcome of non-application of mind.

- iii) To direct the Respondents to extend the benefits of "FISXED MEDICAL ALLOWANCE" to the applicant from the date of his retirement i.e., on 31.10.2013.
- iv) To direct the Respondents to pay the arrears of Fixed Medical Allowance with interest
2 12% per annum from 01.11.2013 to till the date of actual payment.
- v) To impose cost on the Respondent No.3 & 4 for harassing a retired senior citizen denying his statutory benefits.
- vi) And/or pass any other order/orders as deemed fit and proper.

2. Brief facts as it revealed from the pleadings of the parties are that at the time of retirement on superannuation on 31.10.2013, the applicant had opted for availing of the CGHS facility and accordingly, contribution of member fee for the same had been deduced from the dues of the applicant. While the matter stood thus, the applicant was not issued with the Health Card for getting the treatment facilities. He therefore, submitted a representation dated 23.08.2018 to the Respondent-authorities for grant of Fixed Medical Allowance from the date of his retirement on superannuation on wards. His representation was rejected vide communication dated 29.08.2018 (A/7) on the ground that he was not entitled to Fixed Medical Facility as he had opted to avail of CGHS facility. Accordingly, the applicant was advised to contact the concerned CTGHS authority for availing of CGHS facility. Aggrieved by this, the applicant has filed the present O.A. praying for the reliefs as mentioned above.

3. In the short reply filed by the Respondents it has been disclosed that the pensioners have the option to get their names registered with any of the dispensaries irrespective of the fact that whether they are residing in the city

where CGHS facilities are available or not subject to the following two conditions:

- i) They will neither be entitled for any domiciliary visit, if they are residing in an area beyond a radius of 3 kms. (now 5 kms.) of the dispensary nor will be entitled to any travel expenses.
- ii) They will not be eligible to be attached with any VIP dispensary such as North and South Avenue in Delhi and the heavily loaded dispensaries.

4. It has been submitted by the respondents that even though CGHS facilities are at present available only in specified places and it may not be possible for the Central Government pensioners living away from these places to avail of the CGHS facilities on day to day basis, it may be in the interest of the pensioners to enrol themselves as beneficiaries of the CGHS Scheme so that at least in the case of major ailments/major surgery they will be able to come to the CGHS stations to avail of these faculties. They have submitted that processing for pensioners CGHS care is not the duty of the respondents.

5. We have heard the learned counsels for both the sides and perused the materials on record. From the pleadings of the parties, it is an admitted position that the applicant who retired on superannuation with effect from 31.10.2013 had earlier opted for availing of the CGHS facility. It is the case of the applicant that he is residing in a remote village which is about 12 kms. away from the place where the CGHS facility is available. The contribution inadvertently deducted for availing of the CGHS facilities has been refunded and in the circumstances, he is entitled to Fixed Medical Allowance as admissible under the rules particularly when he is not a beneficiary of CGHS facility.

6. We have considered the rival submissions advanced at the Bar. In the short counter filed by the Respondents there appears to be nothing repugnance to the submission made by the applicant that in lieu of CGHS facility, he is entitled to Fixed Medical Allowance. In view of this, we quash the impugned communication dated 29.08.2018 (A/7) whereby the applicant has been advised to contact the concerned CGHS authority for availing CGHS facility. Consequently, we direct the respondents to grant Fixed Medical Allowance as due and admissible to the applicant consequent upon his retirement from service on superannuation and in such eventuality, the applicant shall be entitled to arrears dues which shall be paid to him within a period of 120 (one hundred & twenty) days from the date of receipt of this order.

7. The O.A. is allowed as above, with no order as to costs.

(S.K.MISHRA)
MEMBER(J)

BKS

(G.C.PATI)
MEMBER(A)

