

**Central Administrative Tribunal
Principal Bench, New Delhi**

OA No. 1147/2017

New Delhi this the 19th day of December, 2018

Hon'ble Ms. Praveen Mahajan, Member (A)

1. All India Kendriya Vidyalaya Teachers's Association
Through its' President
K.V.D. Prasad, Aged 56 years
S/o Late Shri K. Butlhabbh
R/o Peddarapeti, H.No.97/2
SBI, Vijayawada.
2. Beer Chand Tyagi, aged 60 years
S/o Shri Desh Raj Singh Tyagi
Retired PGT Geography from
K.V. AGCR Colony, Delhi-92.
R/o AE 167, Avantika, Ghaziabad.
3. Hoshiyar Singh
Aged 62 years
S/o Shri Hari Ram
Retired Principal from KVS
r/o 64, Abhaygarh, Opp. K.V. No.1,
Air Force, Jodhpur (Raj.)

... Applicants

(By Advocate: Shri Yogesh Sharma)

VERSUS

1. Union of India through the Secretary
Ministry of Health & Family Welfare
Nirman Bhawan
New Delhi – 110 011.
2. The Director General
Central Government Health Services (CGHS)
Nirman Bhawan
New Delhi -110 011.
3. The Commissioner
Kendriya Vidhyalaya Sangathan
18, Institutional Area

(By Advocate: Shri Rajinder Nischal for R-1 & 2
Ms. Sweena Nair for Shri S.Rajappa for R-3)

O R D E R (Oral)

The present OA has been filed on behalf of an Association of Teachers' of Kendriya Vidyalaya Sangathan for extending the benefits of CGHS/Medical facilities to all the KVS teachers after their retirement. The applicants state that during their service, the KVS teachers, including Principals are entitled for CGHS facilities while posted in Kendriya Vidyalayas. At places where CGHS facilities are not available, they are entitled for medical facilities as per Civil Service Medical Attendant Rules, 1944 and can take treatment from Authorized Medical Attendant/Govt. Hospital/Govt. Recognised Hospitals etc. In other words, medical facilities are available for all the teachers during their service time.

2. However, after retirement no CGHS or medical facilities are available to the teachers of KVS. One retired KVS employee, namely, R.S. Giri filed an OA No.1549/2013 before the Central Administrative Tribunal, New Delhi seeking CGHS facilities after retirement. The OA was allowed vide judgment dated 23.04.2014. In 14 of the aforesaid judgment it was held that :-

"14. We in the above facts and circumstances are of the considered view that when the employees of KVS have

already been availing the CGHS facility while they were in service, they cannot be left in lurch after they retire without providing them an alternate scheme for the protection of their health. Right to health is an essential part of right to life guaranteed under Article 21 of the Constitution. We, therefore, allow this OA and quash and set aside the impugned order dated 08.10.2012. Consequently, we direct the Respondent-KVS and the Respondents-Director General, Central Government Health Scheme (CGHS) and the Min. Of Health and Family Welfare to work out the necessary modalities as in the case of other autonomous bodies whose retired employees have been granted the facilities of the CGH Scheme. The same facilities shall be extended to the applicant and all other retired employees of KVS who opt for the same. Necessary instructions in this regard shall be issued by the Respondent-Union of India within a period of 3 months from the date of receipt of a copy of this order. There shall be no order as to costs.”

It is averred that the respondents implemented the aforementioned judgment and extended the benefit of CGHS Scheme to the applicant of that OA.

3. The respondent no.3 (the Commissioner, Kendriya Vidyalaya Sangathan) vide OM dated 21.08.2015 with the approval of Ministry of HRD decided to extend the CGHS facility to the retired employees of KVS only in Delhi/NCR. Though in the said OM, it has not been stated that same is applicable only to the non teaching staff but the respondent no.3 applied the OM dated 21.08.2015 only to the non teaching retired employees of KVS only in Delhi/NCR.

4. Recently another retired teacher, namely, Ms. Sudha Bharti filed an OA No.2472/2016 before the CAT, Principal Bench, New

Delhi. On 06.10.2016, OA was decided in favour of the applicant with direction to the respondents to extend the benefit of CGHS to the applicant in terms of OM dated 21.08.2015. It was also mentioned therein that in case the applicant is required to pay any subscription fee etc., the same should be intimated to him to be paid within a specified time frame.

5. In the counter affidavit filed on behalf of respondents no.1 & 2 it has been stated that Ministry of health & Family Welfare extended CGHS facility to serving employees and later to pensioners of Kendriya Vidyalaya Sangathan, an autonomous body in Delhi and NCR. The order of the Ministry has not excluded the teachers of KVS.

6. I have gone through the facts of the case carefully and I find that as per OM dated 21.08.2015, issued by KVS, CGHS facility has been extended to employees of KVS. The said OM has been issued in pursuance to OM dated 29.05.2015 of Ministry of Health & Family Welfare whereunder retired employees of KVS have been extended the CGHS facilities as per certain specified terms & conditions. The said OM (29.05.2015) does not have any exclusion clause applicable to retired teachers of KVS.

7. The learned counsel for respondents no.1 & 2, Shri Rajinder Nischal representing the Union of India and Director General, Central Government Health Services categorically stated during

the course of hearing that the respondents have not excluded the teachers of KVS from the ambit of CGHS facility.

8. In view of these facts, the whole action of the respondents not extending the CGHS facility to retired teaching staff after retirement is bad in law. There is no reason or justification for denying the CGHS/medical facility to the applicants after retirement, which facility is available to all the government employees during their service.

9. The OA is allowed with direction to the respondents to extend the CGHS benefit to the applicant in term of the aforesaid OA dated 21.08.2015. If the applicant is required to pay any amount towards subscription fee etc., the same should be communicated to him/her and the applicant may pay the same within the stipulated time frame. The OA is allowed.

**(Praveen Mahajan)
Member (A)**

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