

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

O.A No. 3349/2018

Reserved on : 22.08.2019

Pronounced on : 24.09.2019

Hon'ble Ms. Aradhana Johri, Member (A)

1. India Trade Promotion Organisation
Retired Employees Welfare Association ITPO
REWA through its General Secretary,
New Delhi.
Name : Y. K. Sharma,
Age-64 years,
S/o. Sh. Govind Ram Sharma,
Retired from the post of DRM
R/o. 54-D, Pocket-F, G.T.B. Enclave,
Delhi-110 093.
 2. Ramesh Dutt Sharma, aged 64 years,
S/o. Late Sh. K. D. Sharma,
Retired from the post of Executive while
Working in India Trade Promotion Organisation,
R/o. H. No. 216, B/5, Gautam Nagar,
New Delhi-49.
 3. Sh. R. L. Gupta, aged
S/o. Sh. Hari Ram Gupta
Retired from the post of Sr. Manager while
Working in ITPO
R/o. 850, Prem Gali No. 3-C
Gandi Nagar, Delhi-110 031.
- ...Applicants

(By Advocate : Mr. Yogesh Sharma)

Versus

1. Union of India through the Secretary,
Ministry of Commerce & Industry, India
Udyog Bhawan,
New Delhi-110 011.
2. The Under Secretary to the Govt. of India
Ministry of Commerce & Industry, India
Department of Commerce,
Trade Promotion Section,
Udyog Bhawan,
New Delhi-110 011.

3. The Chairman Managing Director,
India Trade Promotion Organisation,
Pragati Bhawan, Pragati Maidan,
New Delhi-110 001.

4. The Board of Directors,
Through the Chairman & Managing Director,
India Trade Promotion Organisation,
Pragati Bhawan, Pragati Maidan,
New Delhi-110 001.

...Respondents

(By Advocate : Mr. Vikalp Mudgal)

O R D E R

The applicants of this O.A are the India Trade Promotion Organisation Retired Employees Welfare Association (ITPO) through its' General Secretary as well as two retired employees of ITPO. Through this O.A the applicants are seeking quashing of respondent – ITPO order No. 9-ITPO(9)/E-1/2017 dated 09.03.2018 (Annexure A/1) which states that heavy expenditure of Rs.2700 crore (approx.) is involved in undertaking a mega redevelopment project of Pragati Maidan into International Exhibition-cum-Convention Centre (IECC) and the proposal for introduction of Post Retirement Medical Benefit Scheme (PRMBS), ITPO is not under consideration. The applicants have stated that the action of the respondents in not extending medical facilities to the retired ITPO employees is illegal, arbitrary and discriminatory and have prayed for an order directing the respondents to extend the medical facilities to the retired employees of ITPO and also to reimburse all the medical claim of the applicant no. 2 and

his wife and of applicant no. 3 with all consequential benefits from the date of their retirement. The specific relief sought for are as follows :-

“(i) That the Hon’ble Tribunal may graciously be pleased to pass an order of quashing the impugned order dated 09.03.2018 (A/1) declaring to the effect the whole action of the respondents not extending the Medical facilities to the retired ITPO employees is illegal, arbitrary and discriminatory and consequently pass an order directing the respondents to extend the Medical facilities to the retired employees of ITPO and also reimburse all the medical claim of the applicant no. 2 & his wife and applicant no. 3 with all consequential benefits from the date of their retirement.”

2. The applicants have contended that when they were in service medical facilities were extended to them and not extending medical facilities to retired employees is illegal, arbitrary and discriminatory.

3. Heard Mr. Yogesh Sharma, learned counsel for applicants and Mr. Vikalp Mudgal, learned counsel for respondents.

4. Learned counsel for applicant has also filed written arguments. He has stated that the Department of Public Enterprise (Govt. of India) Office order dated 26.11.2008 while effecting revision of pay scales also issued guidelines for granting post superannuation medical benefits.

5. Govt. of India Department of Public Enterprise (DPE) vide O.M. dated 26.11.2008 issued certain guidelines for grant of post superannuation medical benefits, wherein the Central Public Sector Enterprises (CPSEs) were to make

their own scheme. Further, DPE issued O.M. dated 21.05.2014 clarifying the earlier O.M. in which the following was provided. The relevant extract of which is as under:-

“F. No. W-02/0017/2014-DPE-(WC)-
Government of India
Ministry of Heavy Industries & Public Enterprises
Department of Public Enterprises

Public Enterprises Bhawan
Block No. 14, CGO Complex, Lodi Road,
New Delhi, the 21st May, 2014

OFFICE MEMORANDUM

Subject : Clarifications regarding Introduction of Pension Scheme and Post Superannuation Medical Benefits in CPSEs.

The undersigned is directed to refer to this Department OM No. 2(70)/08-DPE (WC) dated 26.11.2008 and 2(70)/08-DPE (WC) dated 2.4.2009 regarding pay revision of executives and non-unionized supervisors of CPSEs w.e.f. 1.1.2007 which inter alia provides guidelines regarding Superannuation benefits including Pension and Post Superannuation Medical Benefit Scheme of the CPSEs. DPE has been receiving certain queries in this regard. The following clarifications may be kept in mind while finalizing the Pension and Post Superannuation Medical Benefit Scheme of the CPSEs:-

- i) The condition of 30% of Basic Pay + DA for superannuation benefits as prescribed in DPE O.Ms dated 26.11.2008 and 02.04.2009 and as amended from time to time, are to be followed strictly.
- ii) These schemes (pension and post-superannuation benefits) would be subject to the factors like affordability, capacity to pay and sustainability of the CPSE.
- iii) Government budgetary support would not be provided to operate these Schemes.”

6. Accordingly, they have further stated that the respondents were to devise the scheme for granting of post superannuation medical benefits to the retired employees

and respondent no. 2 vide letter dated 10.05.2018 asked the respondent ITPO to submit a comprehensive proposal before their Board for a decision on the Post Retirement Medical Benefits Scheme along with proposal on PRP, in compliance with DPE guidelines on 03.08.2017. Office of respondent no. 3 vide letter dated 30.11.2015 intimated that the issue regarding medical facility and pension scheme to the retired employees of ITPO is under consideration. It has been further contended by the applicants that without taking the matter to the Board, respondent no. 2 has issued the impugned letter stating that PRMBS in ITPO is not under consideration.

7. Respondents have denied the claims of the applicants and they have stated that the DPE guidelines were guidelines at best and not mandatory, subject to factors like affordability and profitability of the CPSEs since it was for the Board of the respective CPSEs to take a decision in the matter. Due to the huge financial implication on respondent no. 2 in having undertaken mega redevelopment project of Pragat Maidan without any budgetary support, ITPO's financial position is not such that they can grant PRMBS. They have filed minutes of the Board meeting of 29.08.2018 wherein details of the cost to be incurred on the new mega project were given.

However, it appears that there was no discussion on post retirement medical benefit scheme (PRMBS).

8. The applicants have filed certain rulings in support of their claim. They have cited judgment of Hon'ble High Court of Madras's case in **Union of India Vs. R. Rangarajan & Anr.** in W.P. (C) No. 32770/2004 and batch, but the said case pertains to grant of extension of medical facilities to retired central Government employees who do not reside under the area covered under the CGHS and is distinguishable from the present case. Similarly, this Tribunal's order dated 23.08.2006 in the case of **Pratap Singh Vs. Director, Subsidiary Intelligence Bureau & Ors.** in O.A No. 284/2006 pertains to extension of CS(MA) Rules to pensioners in a government organisation which is also distinct from the present case. The ruling cited in the case of **Shiva Kant Jha Vs. Union of India**, 2018 (3) SLR 328 (S.C.) pertains to medical reimbursement of the petitioners in a non empanelled hospital in emergency condition which once again does not apply in this case. Further ruling cited in the case of **M. G. Mahendru Vs. Union of India & Ors.**, 2001 (59) DRJ 564, once again pertains to non grant of complete reimbursement at a private hospital on the grounds that the medical facilities were available in the government

hospital. This ruling also does not have any bearing on the matter in question.

9. Respondents have relied on this Tribunal's T.A No. 1150/2009 in **Surendra Pratap Singh & Ors. Vs. India Tourism Development Corporation & Ors.** have pointed out that in the said case the respondents –ITDC introduced the medical benefit scheme for retired employees and then withdrew it, yet this Tribunal held that introducing a scheme or withdrawing the same is a policy decision of the respondents-ITDC. But on perusal of the said order it is seen that the Tribunal held that certain other schemes were introduced, therefore the medical needs of the employees were adequately taken care of. Grounds for dismissal of the T.A in this case was that some schemes were already in force which is not the case in the present O.A Therefore, this ruling cannot be relied upon.

10. After hearing both the sides, what emerges is that DPE has issued certain guidelines, the last being on 21.05.2014 regarding PRMBS. But these guidelines are in the nature of guidelines and it is clearly stipulated that these schemes would be subject to factors like feasibility and capacity to pay and sustainability of CPSEs.

11. These decisions are to be taken by the Board of Directors of each CPSE. It is also noted that respondent

no. 1 – Ministry of Commerce vide letter dated 10.05.2018 asked the respondent no. 3-ITPO to submit a comprehensive proposal before their board for decision on the PRMBS along with a proposal of PRP in compliance with DP guidelines dated 03.08.2017. However, from the perusal of the minutes of the meeting of the Board of Directors of ITPO dated 31.03.2018 it appears that the proposal for PRP was put up but not for post retirement medical benefit scheme (PRMBS).

12. I am of the view that as per the available records as well as the DPE guidelines, it is for the Board of Directors to take a decision in this matter keeping the guidelines in mind. Therefore, without going into the details of what scheme is to be considered by the Board of Directors, it is directed that the issue of PRMBS may be put up to the Board of Directors of ITPO which is competent to take a decision in the matter based on the DPE guidelines, the financial position of ITPO etc, within a period of three months.

13. With the above direction, this O.A is disposed of.
No order as to costs.

(Aradhana Johri)
Member (A)

/Mbt/