

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

**M.A.No.060/00145/2019 &
O.A.NO. 060/00059/2019 Date of order:- 22.7.2019.**

Coram: **Hon'ble Mr. Sanjeev Kaushik, Member (J)**

Parveen w/o late Shri Krishan Lal Nanda, r/o flat No.403, City Heights Society, Peer Mushalla Road, Zirakpur(Punjab)-140 603.

.....Applicant.

(By Advocate :- Mr. D.R.Sharma)

Versus

1. Union of India through its Secretary, Ministry of Communications & Information Technology, Department of Posts, Dak Bhawan, Sansad Marg, New Delhi-110 001.
2. Chief Post Master General, Punjab Circle, Sector 17, Chandigarh-160017.
3. The Senior Superintendent of Post Offices, Chandigarh Division, Sector 17, Chandigarh-160017.

...Respondents

(By Advocate : Mr.B.B.Sharma).

O R D E R (Oral).

Sanjeev Kaushik, Member (J):

Applicant Parveen wife of deceased employee namely Shri Krishan Lal Nanda, is before this Court for issuance of a direction to the respondents to reimburse the medical expenses to the tune of Rs.2,63,358/- which she incurred on medical treatment of her husband, after his retirement.

2. Along with the O.A., the applicant has also moved a Misc. Application under Section 21(3) of the A.T.Act, 1985, for condoning the delay of 1460 days in filing the accompanying OA to which the respondents have filed reply.

3. The husband of the applicant late Shri Krishan Lal Nanda retired from service on 31.1.2002. Till the recommendations of 5th Central Pay Commission, the retired civil government employees were not entitled to the facility of medical reimbursement. However, with effect from 1.12.1997, the retired civilian government employees were paid Rs.100/- per month as fixed medical allowance for outdoor treatment at the places which were not covered by the Central Government Health Scheme (for short CGHS). The Government of India, issued a memorandum dated 5.6.1998 whereby it was decided that the pensioners should not be deprived of medical facilities in their old age and also extended the applicability of Central Civil Services (Medical Attendance) Rules, 1944 to central government pensioners residing in non-CGHS areas. The husband of the applicant was admitted in Alchemist hospital, Panchkula, when he complained chest pain on 15.1.2014 under emergent condition. He remained in the said hospital till 19.1.2014 and unfortunately he died on 19.1.2014. In this way, the applicant had incurred a sum of Rs.2,63,358/- on treatment of her husband. She requested the respondent department for reimbursement of medical expenses which she had incurred, but her request was never considered. It is only in the year 2018 after the pronouncement of a judgment passed by this Court, after relying the judgment passed by the Hon'ble Apex Court in the case of **Shiva Kant Jha** versus **Union of India** (Writ Petition

(Civil) No.694 of 2015) decided on 13.4.2018, where the pensioners are also held entitled to medical reimbursement, the applicant is before this Court for redressal of her grievance.

4. She has also moved a Misc. Application for condonation of delay by giving the reasons that earlier her request was not considered, but after having the judicial pronouncement, she moved for direction to consider her case for reimbursement of medical claim and as such delay be condoned.

5. The respondents have taken objection of delay and have submitted that in terms of section 21(3) of the A.T.Act, 1985, an application has to be filed within one year from the date of cause of action which can be extended by another six months. They have also submitted that the applicant has not explained delay, therefore, the application be dismissed. They further submitted that delay is of more than four years. On merit, the claim of the applicant has not been considered by the respondents.

6. I have heard Shri D.R.Sharma, learned counsel for the applicant and Shri B.B.Sharma, learned counsel for the respondents.

7. Shri Sharma, learned counsel for the applicant vehemently argued that the delay in filing the O.A. be condoned because the applicant is seeking the benefit of a welfare scheme issued by the Government of India for reimbursement of medical expenses. Therefore, the delay in filing the claim cannot be fatal to her genuine claim for reimbursement. He submitted that there is no time

limit prescribed under the policy for reimbursement of medical expenses. Thus, by no stretch of imagination, the respondents can deny the same. He also argued that the right of a citizen to get medical care is a part and parcel of the right to life under Article 21 of the Constitution of India. He also submitted that after the judgment of this Court making retirees eligible for medical reimbursement, the applicant who is a poor and old lady has moved this Court, as such, the present OA be allowed and direction be issued to the respondents to consider her case on merit instead of rejecting the same on delay.

8. Per contra, Shri B.B.Sharma, learned counsel for the respondents vehemently opposed the contention of delay on the ground that huge delay of more than four years cannot be condoned particularly when the applicant has failed to explain the delay, with cogent grounds.

9. I have given my thoughtful consideration to the entire matter with the able assistance of learned counsel for the parties.

10. The right of a citizen to get medical care is a part and parcel of the right to life under Article 21 of the Constitution of India. Such right is further enforced under Article 47 of the Constitution of India. It is an equally sacred obligation cast upon the State. It is otherwise important to bear in mind that self preservation of one's life is the necessary concomitant of the right to life enshrined in Article 21 of the Constitution of India, fundamental in nature, sacred, precious and inviolable. It is a settled legal proposition that

government employee during his life time or after his retirement is entitled to get the benefit of the medical facilities and no fetters can be placed on his rights. It has been held by the Lordships in the case of Shivakant Jha (supra) that " The right to medical claim cannot be denied merely because the name of the hospital is not included in the government order. The real test must be the factum of treatment. Before any medical claim is honoured, the authorities are bound to ensure as to whether the claimant had actually taken treatment and the factum of treatment is supported by records duly certified by doctors/hospitals concerned. Once it is established, the claim cannot be denied on technical grounds".

11. In the light of the above, it is clear that if an employee or his dependant has undergone medical treatment and factum of treatment is not denied, then the claim cannot be rejected on the ground of delay only because the amount had actually been spent by the employee on taking the medical treatment. Moreover, the scheme providing for medical reimbursement nowhere stipulates any time limit and even no law has been cited by the learned counsel for the respondents that for medical reimbursement, there is a time limit prescribed by the Government of India for claiming medical expenses. For the sake of arguments, even if it is assumed that time limit is prescribed, the same cannot be relied upon to deny the very claim itself. The purpose of prescribing time limit is only for reimbursement of medical expenses at an earlier date. The purpose was not to deny the claim. Thus, it is in the nature of a welfare measure. Considering the fact that the issue of reimbursement of medical expenses of retirees has been based upon the judicial

pronouncement passed in the month of June, 2018 itself and immediately thereafter, as submitted in the OA, the applicant has approached the respondents for redressal of her grievance, therefore, the plea raised by the respondents of delay in filing the present OA, cannot be accepted and the delay in filing the present OA is condoned. The claim of the applicant is found to be meritorious in view of law discussed herein above.

12. Accordingly, the OA is allowed and the respondents are directed to consider the claim of the applicant and if she satisfies the respondents that her husband had actually undergone the treatment and she had incurred the amount claimed therein, then they are directed to consider her claim in terms of order passed in the case of Mohan Lal Gupta versus Union of India & Ors. (O.A.No.060/00409/2017) decided on 19.4.2017. Let the above exercise be carried out within a period of two months from the date of receipt of certified copy of this order. No costs.

(SANJEEV KAUSHIK)
MEMBER (J)

Dated:- 22.7.2019.

Kks