

Reserved

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH
CIRCUIT SITTING : INDORE

Original Application No.201/00847/2016

Indore, this Friday, the 30th day of August, 2019

HON'BLE MR. NAVIN TANDON, ADMINISTRATIVE MEMBER
HON'BLE MR. RAMESH SINGH THAKUR, JUDICIAL MEMBER

Dr. R.K. Dubey, S/o Shri S.N. Dubey, Age about 65 years,
Occu.: Retired Medical Officer (SAG), R/o A-35/1, Mahananda
Nagar, Ujjain (M.P.) 456001 **-Applicant**

(By Advocate – Shri Abhishek Bajpai)

V e r s u s

1. The Director General, Employees State Insurance Corporation, Panchdeep Bhawan, C-IGR Marg, New Delhi – 110002.

2. The Medical Superintendent, E.S.I.C Model Hospital & Occupational Disease Centre Nanda Nagar, Indore – 452011
-Respondents

(By Advocate – Shri Rishi Agrawal)

(Date of reserving order : 12.03.2019)

ORDER

By Navin Tandon, AM.

The applicant is aggrieved by the fact that he has not been paid the conveyance allowance for the period May, 2008 to September, 2010.

2. He has made the following submission:

2.1 He was initially appointed on the post of Insurance Medical Officer on 15.6.1981 through a selection process conducted by the Union Public Service Commission and thereafter he was promoted on the post of Medical Officer (NFSG) in the pay scale of 14300-400-18300 (pre-revised) on regular basis w.e.f. 29.6.2006.

2.2 The applicant superannuated on 31.12.2010 and was promoted as CMO (NFSG) in the Grade Pay of Rs.8700/- in the Pay Band-4 before his superannuation.

2.3 Respondent No.1, vide its memorandum dated 06.08.2007 (Annexure A-1) has ordered adoption of the same system which is followed for CHS doctors for grant of conveyance allowance to Specialists/Medical Officers of ESI Hospitals.

2.4 Ministry of Health and Family Welfare vide its Office Memorandum dated 28.04.2009 (Annexure A-2) accepted the recommendations of the 6th CPC and granted enhanced rates of conveyance allowance w.e.f. 01.09.2008. The applicant submitted conveyance allowance certificate to respondent No.2

for grant of conveyance allowance, but the same was not paid to him.

2.5 The applicant submitted a representation dated 27.10.2010 (Annexure A-4) to respondent No.2, which remained undecided.

2.6 The respondents issued a circular on 19.11.2010 (Annexure A-7) by which it has been stated that the claim of conveyance allowance will be accepted if it has been signed by the Head of the Department.

2.7 The applicant approached this Tribunal in OA No.828 of 2012, which was disposed of on 15.09.2014 (Annexure A-14) with the direction to the applicant to produce all the necessary documents before the competent authority within a period of two months and the competent authority was directed to verify the same and upon its satisfaction take appropriate action to pay the admissible amount to the applicant as per the rules, within the next two months.

2.8 The applicant filed his claims on 24.11.2014 (Annexure A-15). The respondents vide letter dated 19.12.2014 (Annexure A-16) asked for giving the supporting documents in respect of

his claim. In response, the applicant submitted a letter dated 9.1.2015 (Annexure A-17) to the respondents by stating that his claim has been made as the proper pro-forma and the certificate submitted by him is sufficient to release/pass the claim.

2.9 The respondents, vide their letter dated 08.05.2015 (Annexure A-18) have rejected the claim for payment of conveyance allowance.

3. The applicant has, therefore, sought for the following reliefs:

“(8) RELIEF SOUGHT:

In view of the said facts mentioned above the Applicant prays and crave indulgence for the following relief.

- a) To allow this Application with cost and;
- b) That Impugned Order Dt. 08.05.2015 (Annexure A/18) issued by Respondent No.2 may kindly be quashed/set aside.
- c) To issue a Direction to the Respondents that the Applicant be granted the amount of Conveyance Allowance w.e.f. May-2008 to September 2010.
- d) To issue a Direction to the Respondents that the Applicant be granted the amount of in Conveyance Allowance with interest @ 12% per annum.
- e) Any other relief which this Hon’ble Tribunal may deem fit may also be granted to the Applicant.”

4. The respondents have filed their reply in which they have made the following submissions:

4.1 Regarding the submission of the applicant that he performed his duties after his duty hours as per duty roaster and despite no conveyance allowance was paid to him, the respondents submit that the said roaster was made only for normal duty hours and for this purpose the applicant was regularly being paid the Transportation Allowance.

4.2 As per the claim/format, which was being used in the CHS (Annexure R-3), the applicant should have submitted his claims in the prescribed pro-forma, which has to be countersigned by the Head of the Department.

5. The applicant has filed rejoinder in which he has again reiterated that the self claimed conveyance allowance has been granted to Dr. Narendra Kumar and Dr. Suchitra Bose as per Annexure A-25.

6. Heard learned counsel for the parties and perused the pleadings and documents available on record.

7. Learned counsel for the applicant submits that all the conveyance allowance bills up to September, 2010 were always kept pending by the respondents and were never returned to the

applicant. He has also filed his representation regarding the same (Annexure A-4), but the same was never decided upon. He further placed emphasized on the fact that other similarly placed Class-1 Officers are being given the conveyance allowance on the basis of self certificate. However, the same has been denied to the applicant. Learned counsel for the applicant also submits that when the applicant approached respondent No.1, it has been categorically stated by respondent No.1 that the matter should be decided by respondent No.2.

8. Learned counsel for the respondents emphatically submitted that Annexure R-3 very specifically speaks that the domiciliary visit has to be given as per the details mentioned in Para 7, which reads as under:

“**7.** Certified that I have maintained visit register giving details of the visit made, the date, time and place of such visits and the name of the patient etc.”

8.1 He further submitted that the system has always invoked that the Medical Officers should have maintained their diary, which in the case of the applicant, has not been done.

FINDINGS

9. It is a undisputed fact that the applicant was filing his claim for conveyance allowance every month. The respondents

kept it pending and did not take any action on the same. Also the said conveyance allowance forms were not even returned to the applicant for additional information. If the requirement was for counter signature of the Head of the Department, the conveyance claims forms should have been put up to them by the office of respondent No.2 for the purpose.

10. The scheme of conveyance allowance for the Medical Officers was issued by the Government for Central Health Service (CHS) doctors. The same was adopted by the respondents in ESIC also. The respondents were very much within their right to frame any procedure order for the payment of said conveyance allowance. However, in the present case neither any procedure order was issued, nor the claims were returned unsanctioned to the applicant.

11. It has also been very clearly brought out by the applicant while filing the note-sheet (Annexure A-21), wherein it has been said that, “all medical officers are Class I officers and the form is self claimed, so these self declaration, with self attestation should be treated as authenticated and they will themselves be held responsible for any deviation in respect of reimbursement. However they have been asked to keep

“relevant documents” as per conveyance allowance by the office order no.18-डी/कन्वेन्स-20/आ.भि. इन्दौर.”

12. We find that the conveyance allowance are for the period pertaining to the year 2009 and 2010.

13. The respondents cannot apply different yardstick for grant of the said conveyance allowance to other Medical Officers, said to be Class I officers, and different yardstick for the applicant, who was also a Class-I officer. Accordingly, we find merit in the assertion of the applicant that he has been discriminated against for grant of the said conveyance allowance.

14. Accordingly, O.A is allowed. The impugned order dated 08.05.2015 (Annexure A-18) is quashed and set aside. The respondent No.2 is directed to make the payment due to the applicant in the form of conveyance allowance within a period of 60 days from the date of receipt of certified copy of this order. No costs.

(Ramesh Singh Thakur)
Judicial Member
am/-

(Navin Tandon)
Administrative Member