

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI**

1) **O.A. NO.1667/2003**
2) **O.A. NO.2329/2003**

This the 27th day of October, 2004.

HON'BLE SHRI V. K. MAJOTRA, VICE-CHAIRMAN (A)

1) O.A. NO.1667/2003

Rattan Lal Gupta (Retd. Principal)
S/O Tulsi Ram Gupta,
R/O E2/114, Shastri Nagar,
Delhi-110053.

... Applicant

(By Shri Arun Bhardwaj, Advocate)

-versus-

1. Govt. of N.C.T. of Delhi through
Chief Secretary, Players' Building,
I.P.Estate, Delhi.
2. Director of Education,
Directorate of Education,
Govt. of NCT of Delhi,
Old. Sectt., Delhi-110054.
3. Dy. Director of Education,
North-West [B] Distt.,
FU Block Pitampura,
New Delhi.
4. DDO,
Govt. Sr. Sec. School,
Rampura, New Delhi-110035. ... Respondents

(By Mrs. Avnish Ahlawat through Shri Mohit Madan, Advocate)

2) O.A. NO.2329/2003

Som Dutt Sharma,
Retd. PGT [SKT],
R/O 1179/4, Urban Estate,
Gurgaon.

... Applicant

(By Shri Arun Bhardwaj, Advocate)

-versus-

1. Govt. of N.C.T. of Delhi through
Chief Secretary, Players' Building,
ITO, Delhi.
2. Director of Education,
Directorate of Education,
Govt. of NCT of Delhi,
Players' Building,
ITO, Delhi.
3. Dy. Director of Education,
South West Distt.,
New Delhi.
4. Principal,
Govt. Co-education Sr. Secondary School,
Jhatikara, New Delhi. ... Respondents

(By Mrs. Avnish Ahlawat through Shri Mohit Madan, Advocate)

ORDER

The facts being similar and the issues involved being identical, these OAs are being disposed of by this common order. For the sake of convenience, the facts have been taken up mainly from OA No.1667/2003.

2. Applicant in OA No.1667/2003 has challenged Annexure A-1 dated 8.11.2002 whereby his claim for reimbursement of medical expenses as a pensioner has been rejected.

3. Briefly stated, the facts of the case are that applicant retired as Principal, Government Senior Secondary School, Rampura, Delhi on 30.4.1996. He underwent surgery on 30.12.2000 and 2.1.2001. He tendered his subscription amounting to Rs.3,000/- for becoming member of the scheme for providing medical facilities to the employees/pensioners of Delhi Government on 14.2.2002. He submitted his claim for medical reimbursement of expenses on his surgery undergone on 30.12.2000 and

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2.1.2001, on 27.2.2002. Respondents have rejected his claim for reimbursement of medical expenses stating that the membership of the scheme is optional and has a prospective effect from the date of depositing subscription.

4. So far as the applicant in OA No.2329/2003 is concerned, he retired as PGT on 31.8.1997 and underwent surgery on 25.3.2000. He tendered his subscription towards the medical scheme on 14.9.2000. He was issued medical facility card on 27.9.2000. His medical claim was rejected on the same ground as that of the applicant in OA No.1667/2003, vide impugned orders dated 15.5.2001, 2.7.2001 and 30.8.2001 (Annexure A-1 colly.).

5. The learned counsel of applicants contended as follows :

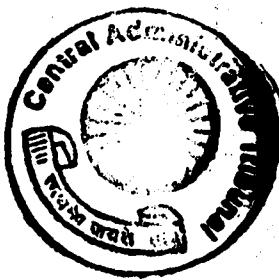
- (1) The scheme was introduced vide letter dated 13.5.1997 of the Department of Medical and Public Health, Government of N.C.T. of Delhi (Annexure A-2). Vide letter dated 24.11.1997, respondents were supposed to send a list of the hospitals to the pensioners. The scheme was made applicable to all pensioners belonging to teaching, non-teaching and family planning cadre of Government of N.C.T. of Delhi irrespective of their retirement, i.e., prior to and after 1.4.1997. Although in the letter dated 24.11.1997 it was stipulated that contribution towards the scheme from the pensioners was to be accepted up to 31.12.1997, this stipulation was later on withdrawn vide letter dated 22.1.1998.
- (2) Respondents have accepted the requisite contribution from applicants w.e.f. 1.4.1997, on 14.2.2002 and 14.9.2000.
- (3) Respondents have reimbursed medical claim of one Shri A.N.Garg who was similarly situate as the applicants. Shri Garg had retired

on 31.8.1996; underwent surgery on 2.11.1996 and 3.12.1996; and he was sanctioned payments on 17.9.1997 and 7.10.1997, though he deposited his contribution later on, on 21.11.1997 and 25.3.1998.

5. The learned counsel of the respondents disputed the claims of applicants stoutly. He contended that vide Annexure R-1 dated 28.3.2002 which is a clarification regarding scheme for medical facilities to the employees/pensioners of the Government of N.C.T. of Delhi, it was clarified that Delhi Government Health Scheme is optional and is prospectively effective from the date one tenders his subscription amount and no benefit is extended from retrospective effect. He drew my attention to Annexure R-2 whereby case of one Shri Raj Rup Singh, retired Superintendent, who was similarly circumstanced as the applicants, was processed and his claims for reimbursement of medical expenses was rejected on the ground that he had undertaken medical treatment at the time when he was not a member of the scheme. The learned counsel of respondents stated that Shri A.N.Garg had deposited his contribution and become member of the scheme before the stipulated date, i.e., 31.12.1997 and as such, his case was not similar to the case of the applicants.

6. Vide letter No.DE/DRTI/ACT/ID/47/03/14192 dated 17.3.2003, respondents have informed the applicant that the headquarters had circulated the scheme to its subordinate offices and that it was not circulated to the retired persons. Respondents have not been able to establish by records that Shri Garg had deposited the entire contribution before the stipulated date. They have not been able to controvert successfully that Shri Garg had deposited the contribution on 21.11.1997 and 25.3.1998. He had deposited a partial amount of Rs.900/- out of Rs.3,000/- on 21.11.1997 and 25.3.1998. He deposited no further

contribution thereafter and he was sanctioned reimbursement of medical expenses on 7.10.1997. While Shri Garg had undergone surgery on 22.11.1996 and 3.12.1996, he had partially deposited his contribution and had not become a full-fledged member of the scheme before the stipulated date. As a matter of fact, with the deletion of paragraph 1 of respondents letter dated 24.11.1997, the stipulation of the cut off date of 31.12.1997 for making contribution towards the scheme became infructuous. Respondents have not contested the deletion of the stipulation period relating to payment of contribution towards the scheme. In this view of the matter, contribution towards the scheme could be made any time even after 31.12.1997, and even prior to that respondents had accorded sanction to reimbursement claims of Shri Garg who was similarly situated as the applicants. Admittedly, while respondents had not circulated the scheme to the pensioners or even the names of the hospitals where they could receive treatment, respondents cannot be allowed to take the plea that applicants should have made their contribution for becoming members of the scheme prior to 31.12.1997. They had neither informed the applicants regarding the scheme nor about the list of hospitals. They had not provided them any option and while according to their own instructions, they were supposed to deduct the contribution from applicants' pension, applicants made their contribution even though at a later stage, the claim of reimbursement of medical expenses is being denied arbitrarily. The action of the respondents in denying the applicants' claim, although the respondents had received the entire amount of contribution from the applicants, is nothing but arbitrary. When the respondents have deleted the condition of the cut off date of contribution, making the cut off date as an excuse for denying the benefit of medical reimbursement is harsh and unsympathetic. While respondents as model employers are expected to mete out a humane and sympathetic treatment to their



employees/pensioners, non-application of their own scheme for reimbursement of medical expenses in the case of the present pensioners is clearly against the provisions of their own scheme read with their clarifications. The factum of delayed payment of contribution on the part of the applicants in the facts and circumstances of the present case shall not adversely affect the case of applicants.

7. Having regard to the reasons stated above, the impugned orders in both OAs are quashed and set aside and respondents are directed to consider applicants' claim for reimbursement of medical expenses as per the provisions of the aforesaid scheme expeditiously and preferably within a period of two months from the date of communication of these orders.

8. The OAs are allowed in the above terms.

/as/

(V. K. Majotra)
Vice-Chairman (A)

27.10.04

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Chanday
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Court