

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHENNAI BENCH**

OA/310/00748/2018

Dated the 4 day of March Two Thousand Nineteen

PRESENT

HON'BLE MR. T. JACOB, Member (A)

G. Karunakaran
Retd. Diesel Fitter
No. 8, Gandhi Street
Vivekanada Nagar, M.K. Kottai
Trichy.Applicant

By Advocate M/s. Ratio Legis

Vs

1. Union of India represented by
The General Manager
Southern Railway
Park Town, Chennai 600 003.

2. The Chief Works Manager
Central Workshops
Ponmalai, Trichy – 620 004.Respondents

By Advocate Mrs. Meera Gnanasekar



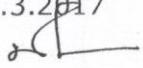
ORDER**(Pronounced by Hon'ble Mr. T. Jacob, Member(A))**

Heard. The applicant has filed this OA seeking the following relief:

"To call for the impugned order No. GPB/353/Court/O.A. No. 410/2017 dated 14.09.2017 and to quash the same, and further to direct the respondents to make necessary entries in the PPO/PPA and to pay 'the Fixed Medical Allowance' and to make further order/orders"

2. Succinctly stated, the case relates to exercise of option for availing of fixed medical allowance instead of availing of the medical facilities in the Railway Hospitals. One of the post pension benefits afforded to the Railway pensioners is that they are provided with medical treatment in the nearby Railway Hospital and if the residence of a pensioner is beyond 2.5 kms of the Railway Hospital, he is given the option of either availing of the medical facilities of the Railway Hospitals or he could claim a fixed Medical Allowance.

3. The brief facts of the case, according to the applicant, are that the applicant joined the Railway Service on 14.09.1972 and while working as a Diesel Fitter retired on 31.07.2017 on attaining the age of superannuation. While issuing the Pension Payment Order against the column 'Medical Allowance' 'N A' (Not Applicable) remark was made. Later on, the applicant vide letter dated 18.11.2015 exercised his option for Fixed Medical Allowance as the place of his residence fell beyond 2.5 kms. Since there was no reply to his letter, he preferred OA 410/2017 and the same was disposed of at the admission stage itself by order dated 15.3.2017



with a direction to pass a speaking order. In pursuance of the said order of this Tribunal, respondents have passed the impugned order dated 14.09.2017 rejecting the claim of the applicant. Hence the applicant has filed this OA seeking the above reliefs.

4. Per contra, the respondents in their reply statement have stated that in pursuance of the V CPC recommendations, the Railway pensioners/Family Pensioners residing outside the city/town/municipal limits where a Railway Hospital/Health Unit, Lock up Dispensary is situated were awarded Fixed Medical Allowance @ Rs. 100/- p.m. Vide Railway Board RBE No. 65/1999 dated 21.04.1999. Subsequently Fixed Medical Allowance was increased to Rs. 300/- p.m., thereafter to Rs. 500/- and presently awarded Rs. 1000/- p.m. The existing pensioners as well as future retirees will have to exercise one time option in the prescribed form to avail Out Patient Department treatment in Railway Hospitals or to claim Fixed Medical Allowance on monthly basis along with pension. However, in compliance of the Judgment dated 22.11.2002 of the Hon'ble High Court of Kerala in OP No. 17380/2002 arising out of OA No. 430/2000 of the Central Administrative Tribunal, Ernakulam Bench, the Railway Board vide RBE No. 45/2004 dated 1.3.2004 ordered for grant of Fixed Medical Allowance to Railway Pensioners/Family Pensioners residing beyond 2.5 kms from the Railway Hospital / Health Unit subject to furnishing of an undertaking as per the proforma. As per the said Railway Board letter, the condition that the pensioners should reside outside the City/Town/Municipality limits of places where a Railway Hospital/Health



Unit/Lockup Dispensary is situated for availing Fixed Medical Allowance had been changed and fixed as 2.5 kms. The pensioners are also allowed to exercise change in option once in a lifetime if there is change in residential address supported by proper proof for the purpose of availing Fixed Medical Allowance vide Railway Board RBE No. 107/2002 dated 15.7.2002 subject to the condition that the pensioner should live in a place situated beyond 2.5 kms.

5. Heard the learned counsel for the respective parties and perused the pleadings and documents on record.

6. Learned counsel for the applicant has drawn attention to Para 3 of the format of Revised undertaking in Annexure-I to the Railway Board Circular RBE No. 75/2017 dated 28.07.2017 regarding enhancement of Fixed Medical Allowance from Rs. 500 to 1000/- per month and submitted that it stipulates that the pensioner is required to declare that he had not availed of any treatment as an outdoor patient except in the case of chronic diseases from the date of retirement or from the date of availing of the OPD facility on the last occasion or 1.12.1997 whichever was later, till the date of the option. He has argued that even the existing pensioners had an option to move from OPD to Fixed Monthly Allowance and the disposal of the applicant's representation by the impugned order made no reference to the above circular. He has also relied on the decision of this Tribunal in OA No. 747/2018, which was disposed of by order dated 22.6.2018 in support of his contention.

7. Admittedly, the grant of Fixed Medical Allowance is intended to meet

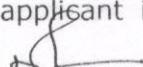
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day to day medical expenses that do not require hospitalisation. Those opting for the Fixed Medical Allowance will not be entitled to receive treatment as Outdoor patients. However, pensioners will not be debarred from receiving treatment for chronic illnesses requiring specialised investigation or long term treatment for chronic diseases, even if such treatment is received on outpatient basis vide RBE No. 2008/H/DC/JCM dated 12.10.2006.

8. As per Railway Board RBE No. 168/2009 dated 15.09.2009, two conditions are to be fulfilled by the pensioners/family pensioners for claiming Fixed Medical Allowance:-

- (i) The pensioner/family pensioner is residing beyond 2.5 kms from the nearest health unit.
- (ii) The pensioner/family pensioner is not availing the facility of Out Patient Department treatment (except in cases of chronic diseases).

9. The applicant herein at the time of his retirement on superannuation did not exercise any option to claim Fixed Medical Allowance. He had given a declaration that his place of residence is within the radius of 2.5 kms from the nearest Railway Hospital/Health Unit and opted for availing Out Patient Department treatment facility from Railway Hospital. The applicant has now sought to exercise his option for Fixed Medical Allowance without there being any change in address. As per condition No. 1 stipulated in the Railway Board RBE No. 168/2009 dated 15.9.2009 the pensioner/family pensioner should reside beyond 2.5 kms from the nearest health unit. It is seen from the records that the applicant is



residing in the same address given at the time of retirement which is within the radius of 2.5 kms and hence as per extant instructions, Fixed Medical Allowance is not admissible to the applicant. Further, the applicant has not refuted the fact that he is staying beyond 2.5Kms from Railway Hospital/Health Unit. The facts of the case relied on by the applicant's counsel are distinguishable from the facts of the instant case

10. In view of the above facts and circumstances of the case, the applicant has not made out a case for grant of the reliefs as prayed for by him in the OA. In the result, the OA is liable to be dismissed and is accordingly dismissed. No order as to costs.