

**Central Administrative Tribunal
Principal Bench**

**CP No.465/2019
in
OA No.3214/2016**

New Delhi, this the 22nd day of October, 2019

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. Mohd. Jamshed, Member (A)**

1. All India KVS Retired Employees Welfare Society, Through it's General Secretary, Dr. V.P. Garg, B-2/48A, Keshav Puram, New Delhi-1100352.
2. Dr. V.P. Garg, Principal (Rtd), Aged 72 years, S/o Dr. G.R. Garg, General Secretary, All India KVS Retired Employees Welfare Society, B-2/48A, Keshavpuram, New Delhi-110035.
3. Shri R.K. Gautum, Principal (Rtd.) Aged 66 years, S/o Late Shri U.S. Gautam, Member, All India KVS Retired Employees Welfare Society, R/o A/151, Hari Nagar, Ground Floor, New Delhi-110064.

...Petitioners

(By Advocate : Shri E.J. Varghese)

Versus

1. Ms. Priti Sudan, Secretary, Ministry of Health and Family Welfare, Nirman Bhawan, New Delhi-110011.
2. Smt. Rima Ray, Secretary,

Ministry of Human Resources & Development,
Department of Education,
Shastri Bhavan,
New Delhi-110011.

3. Shri Navneet Singh Kang,
Director General Health Services (CGHS),
Nirman Bhawan,
New Delhi-110011.
4. Shri Santosh Kumar Mall,
Commissioner,
Kendriya Vidyalaya Sangathan,
18, Institutional Area, Shaheed Jeet Singh Marg,
New Delhi-110016.

...Respondents

ORDER (ORAL)

Justice L. Narasimha Reddy, Chairman :-

The petitioners filed OA No.3214/2016, claiming the medical facilities under the CGHS, for employees who retired from service of Kendriya Vidyalaya Sangathan (KVS). During the pendency of the OA, the Ministry of Health and Family Welfare, issued OM dated 29.05.2015, providing for such facilities to the retired employees also. The consequential OM dated 21.08.2015, was issued by the KVS. Taking these developments into account, the Tribunal disposed of the OA, directing the respondents to extend the benefit through a speaking order, to the retired employees also, in terms of the OM dated 21.08.2015.

2. It is stated that a contempt case was filed, when the orders passed in the OA were not implemented, and ultimately, KVS issued the OM dated 20.03.2018, extending the benefit of CGHS to the retired employees also.

3. This contempt case is filed alleging that the KVS issued OM dated 13.03.2019 wherein, it was mentioned that the CGHS facility to the retired employees of the KVS would be available only to those who were having CGHS card, while in service. The petitioners contend that this is contrary to the orders passed in the OA and it amounts to contempt of Court.

4. We heard Shri E.J. Varghese, learned counsel for petitioners, at length and perused the record.

5. The order in the OA was passed, by taking into account, the OM dated 29.05.2015, issued by the Ministry of Health and Family Welfare and the OM dated 21.08.2015, issued by the KVS. Paragraphs 3 and 4 of the order reads as under :-

“3. When the matter is taken up for hearing, my attention was drawn to Annexure A/4 Office Memorandum dated 29.05.2015 of the respondent – Union of India, Ministry of Health and Family Welfare, CGHS (P) Section wherunder the Ministry, in receipt of a request from KVS to extend the CGHS facilities to its retired employees, has decided to extend the CGHS facilities to them, subject to the conditions mentioned therein. In pursuance of the said Office Memorandum, the KVS issued Office Memorandum dated 21.08.2015 whereunder the retired employees of KVS have been extended the CGHS facilities as per the terms and conditions therein.

4. In view of the Office Memorandum dated 21.08.2015 extending the CGHS facilities to the retired employees of KVS, who are residing in Dehi/NCR, the OA is disposed of by directing the respondents to extend the CGHS benefits to the applicants in terms of the aforesaid OM dated 21.08.2015, by passing a speaking order, within 30 days from the date of receipt of a copy of this order. If the applicants are required to pay any amount towards subscription fee etc., the respondents shall intimate the same to them and the applicants may pay the same within the time specified by the respondents. No costs.”

6. Nowhere, it is mentioned that irrespective of the nature of the facilities or benefits that were availed by the employees while in service, the CGHS facility would be extended to them, after retirement. The OM dated

20.03.2018 was issued as a measure of implementation of order in the OA. It reads as under :-

“OFFICE MEMORANDUM”

Subject : Extension of CGHS facilities to all retired employees of Kendriya Vidyalaya Sangathan residing in Delhi/NCR- regarding.

Consequent upon KVS's proposal on the subject vide letter dated 29.09.2017, the Deputy Secretary (UT), Ministry of Human Resource Development vide his letter No.F.3-5/2011-UT-2 dated 02.02.2018 to be read with MHRD's letter of even number dated 19.03.2018 has conveyed the decision of Ministry of Health and Family Welfare, Government of India, New Delhi regarding extension of CGHS facilities to all retired employees of Kendriya Vidyalaya Sangathan (KVS) residing in Delhi/NCR.

2. Accordingly, medical facility under the CGHS is extended to all retired employees of Kendriya Vidyalaya Sangathan residing in Delhi/NCR.

The terms and conditions mentioned in the Office Memorandum of even number dated 21.08.2015 will remain the same.”

7. It is important to note that the OM dated 21.08.2015, which constituted the basis for granting the relief in the OA, contains clause 'a', which reads as under :-

“a. CGHS facilities shall be extended to the retired employees of KVS only

in Delhi/NCR. They will be entitled to OPD facilities and medicines from CGHS dispensaries in Delhi/NCR only on the same lines as is being done in case of serving employees of KVS.”

There is special reference to the facilities that were availed by the employees, while in service.

8. The Ministry of Human Resource and Development is said to have addressed a letter, with certain conditionalities. Taking the same into account, the KVS issued OM dated 13.03.2019. The same reads as under:-

“OFFICE MEMORANDUM

Subject : Extension of CGHS facilities to the retired employees of Kendriya Vidyalaya Sangathan (KVS) – matter regarding.

Ministry of HRD, vide letter No.F3-5/2011-UT-2 dated: 13.03.2019 has conveyed the approval of the Ministry of Health & Family Welfare O.M. No.S.11016/8/2015-CGHS (P) dated 06.03.2019 vide which Ministry of Health & Family Welfare has extended the implementation of CGHS facilities to all the retired employees of KVS, who were having CGHS cards while in service, in all CGHS covered Cities, on the same terms and conditions on which retired employees of KVS were extended CGHS facilities in Delhi/NCR vide Ministry of Health & Family Welfare OM dated 29.05.2015.

Other terms and conditions of MoH&FW OM dated 29.05.2015 circulated vide KVS (HQ) OM No.11086/01/2012-KVS HQ (Admn.II)/793-805 dated 21.08.2015 will remain unchanged.”

9. This, according to the petitioners, constitutes contempt of Court, *insofar* as, it restricts the facilities only to those who were having CGHS card, while in service.

10. The order in the OA did not deal with the issue whether the employees, who did not have CGHS card while in service; would also be entitled for the CGHS benefits after retirement. In fact, the very basis for the order was the OM dated 21.08.2015, which in turn, contains a clause for extending the facilities that were being availed by serving employees; leaves some scope for interpretation. Added to that, the Ministry of HRD addressed a letter and that in turn, gave rise to the issuance of the OM.

11. We are not at all, addressing the issue of validity or legality of the OM dated 13.03.2019. However, it is too difficult to hold that the issuance of the said OM amounts to contempt of Court. It came to be issued in

the light of a letter dated 13.03.2019, which is not a part of record.

12. It is fairly well settled that in the contempt proceedings, the respondents can be held guilty only when a specific direction, which leaves no scope for no other interpretation, has been violated, deliberately. We do not find any such circumstances in this case. If the applicants feel aggrieved by the order dated 13.03.2019, it shall be open to them to file a separate OA and pursue the remedies.

13. We do not find any basis to entertain this contempt case. We accordingly, close the CP.

(Mohd. Jamshed)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

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