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**(2011) 03 P&H CK 0621**  
**In the Punjab And Haryana At Chandigarh**  
**Case No : C.W.P. No. 13296 of 2009**

A.K. Prashar

APPELLANT

Vs

State of Haryana and Others

RESPONDENT

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**Date of Decision :** 10-03-2011

**Acts Referred:**

Constitution of India, 1950 — Article 226, 227

**Citation :** (2011) 03 P&H CK 0621

**Hon'ble Judges :** Mahesh Grover, J

**Bench :** Single Bench

**Final Decision :** Allowed

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## Judgement

Mahesh Grover, J.—This petition has been filed by the Petitioner, who is aged 75 years. He retired from the service of the Respondents as Assistant Excise and Taxation Officer. His wife suffered from breast cancer and required treatment which she took from Post Graduate Institute of Medical Education and Research, Chandigarh. She was admitted to the hospital for surgery between 22.12.2004 to 29.12.2004. The expenditure for this was reimbursed by the Respondents. After the wife of the Petitioner was discharged from the hospital she was required to come for regular check-ups and for continuation of treatment for administering Chemotherapy/Radiotherapy at regular intervals. She again suffered from some complicated chronic disease which is borne out from the certificate issued by the hospital authorities on 20.8.2007. The Petitioner moved an application on 21.3.2005 for medical reimbursement of the amount which he had incurred on the treatment of his wife. He also submitted the medical bills along with the same. The Respondents declined to reimburse the amounts raised by the Petitioner and after some correspondence between the two finally decided the matter by virtue of Annexure P-8 declining to honour the bills which the Petitioner has raised amounting to Rs. 10,211/-on the ground that the Petitioner was availing fixed medical allowance and, therefore, as per rules he was not entitled to the reimbursement of expenditure on chronic disease.

2. Aggrieved by the same the Petitioner has invoked the jurisdiction of this Court under Articles 226/227 of the Constitution of India.

3. Upon notice of motion having been issued the Respondents have filed their reply and have merely reiterated what they have said in the impugned order. It has further been stated by them that the Petitioner had submitted a request on 22.4.2007 for seeking permission to change his preference of having fixed medical allowance with effect from 31.3.2007 by pleading that his wife is a cancer patient and the treatment is expensive. The Excise and Taxation Commissioner directed the Petitioner that the option can be changed at the start of the financial year i.e. in the month of April subject to a certificate being issued by the bank regarding stoppage of fixed medical allowance and a certificate of chronic disease. A plea has also been raised that the certificate of chronic disease is to be reviewed after every two years by the medical board constituted at District Head Quarter or the PGI, as the case may be.

4. On consideration of the matter, I am of the opinion that the matter is no longer *res integra*. This Court on numerous occasions has given directions that the medical reimbursement should not be made a hostage to technicalities. More often, than not the reply of the Respondents hinges on technicalities that may vary from case to case. In most of the cases the reply is that the treatment has not been taken from an approved hospital and the second is the one which has been taken in the instant case that the employee had opted for a fixed medical allowance. Sufficient light has been shown by the courts to the States to deal with such matters, but for no ostensible reason the aggrieved individuals are forced to come to the Court. All such aggrieved persons have been the erstwhile employees of the government. Once the courts have given sufficient reasons for allowing medical reimbursement negating the objections which are normally raised by the State, in particular the ones which have been referred to in the forgoing paragraphs, I do not find any justification for the Respondents to keep on persisting with an attitude which has been effectively offset by the observations of the Courts in repeated pronouncements. Apart from resulting in unnecessary and avoidable inconvenience to the affected employees, it also results in a colossal wastage of time of the Court which has to deal with the matters which ordinarily should be answered by the officials themselves, more so when, as observed earlier, the matter being not *res integra*.

5. The Hon<sup>ble</sup> Supreme Court in *The Secretary to the Government of Haryana and Ors. v. Vidya Sagar* 2009(5) S.L.R. 435, observed as follows:

We see no reason to differ with the view of the High Court. Although the circular dated 28.5.2003 does not expressly supersede the circular letter dated 30.11.1993, but the matter having been issued subsequent to the former and in relation to particular category of disease, namely, the chronic diseases, shall prevail over the earlier general circular letter. The said circular letter dated 28.5.2003 brings within its umbrage not only the expenses incurred for the treatment of chronic disease outdoor but also indoor. In that view of the matter,

the impugned judgment must be sustained.

6. Similarly, a Division Bench of this Court in *Raghuvir Parsad Mittal v. State of Haryana and Ors.* 2008(3) S.C.T. 362, has held that to deny a person complete medical reimbursement on account of his having exercised the option for Fixed Medical allowance, cannot be construed to be a valid reason.

7. The prayer is, thus, accepted. The Respondents are directed to reimburse the medical bills which have been raised by the Petitioner, subject to their verification, within a period of four months from the date of receipt of the copy of the order. The Respondents shall also pay costs of Rs. 10,000/- to the Petitioner.

8. Petition allowed.