
(2012) 01 P&H CK 0189
In the Punjab And Haryana At Chandigarh
Case No : L.P.A. No. 2372 of 2011 (O and M)

Asstt. Commissioner Income Tax

APPELLANT

Vs

J.R. Dhingra and others

RESPONDENT

Date of Decision : 02-01-2012

Acts Referred:

Citation : (2012) 01 P&H CK 0189

Hon'ble Judges : Tej Pratap Singh Mann, J; Satish Kumar Mittal, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Satish Kumar Mittal, J.—This Letters Patent Appeal is directed against the order dated 8.7.2011 passed by the learned Single Judge whereby the writ petition (CWP No.19783 of 2010) filed by respondent No.1 for directing the appellant to reimburse the medical expenses incurred by him in getting his treatment from Fortis Hospital, Mohali, has been allowed.

2. Though this appeal is barred by limitation, and along with the appeal, the appellant has filed an application (CM No.6423 of 2011) for condonation of 101 days of delay in filing the appeal, however, without taking the said delay into consideration, we have heard the learned counsel for the appellant on merits and gone through the impugned order passed by the learned Single Judge.

3. It has not been disputed that respondent No.1 is the retired employee of the appellant and under the Central Government Health Scheme (hereinafter referred to as 'CGHS') he is eligible to avail the medical facilities being a pensioner. However, it has been argued that respondent No.1 cannot avail the benefit of the said Scheme because he neither get his name registered with any of the dispensary in CGHS covered dispensaries nor paid the requisite contribution. The learned Single Judge while following the decision of the Delhi High Court, where a similar controversy arose, has allowed the writ petition and directed the appellant to pay the medical reimbursement to respondent No.1 as

per his entitlement under the CGHS. These judgments of Delhi High Court have been noticed in the latest Single Bench decision of Delhi High Court in Kishan Chand Versus Govt. of N.C.T. & Others W.P.(C) No.889 of 2007, decided on 12.03.2010] where the legal position has been summarized as under:

1) Even if employee contributes after availing medical facilities, and becoming member after treatment, there is entitlement to reimbursement (DB) Government of National Capital Territory of Delhi and The Principal, Govt. Co-ed. Sr. Sec. School Vs. Shri Som Dutt Sharma, Retired P.G.T. (Sanskrit),

2) Even if membership under scheme not processed the retiree entitled to benefits of Scheme Mahendra Pal Vs. Union of India (UOI) and Others,

3) Full amounts incurred have to be paid by the employer; reimbursement of entire amount has to be made. It is for the Government and the hospital concerned to settle what is correct amount. Milap Singh V. UOI: 113(2004) DLT 473.

4) The pensioner is entitled to full reimbursement so long the hospital remains in approved list P.N. Chopra V. UOI, (iii) 2004 DLT 190.

5) Status of retired employee not as card holder: S.K. Sharma and Others Vs. Union of India (UOI) and Others, ;

6) If medical treatment is availed, whether the employee is a card holder or not is irrelevant and full reimbursement to be given. B.R. Mehta Vs. Union of India and Others,

4. The learned counsel for the appellant is not able to controvert the aforesaid legal position. She did not cite any contrary judgment. She could not dispute that the facts of the present case are squarely covered by the aforesaid judgment rendered by the Delhi High Court.

5. In view of the aforesaid factual and legal position, we do not find any illegality in the said order or any ground to entertain this appeal.

6. Dismissed.