(2000) 09 SC CK 0059

In the Supreme Court Of India

Case No : W.P.No. 2994/2001

K.P. Singh — APPELLANT

Vs

Union of India (UOI) and Others — RESPONDENT

Date of Decision : 12-09-2000

Acts Referred:

Citation : AIR 2000 SC 1884 : (2001) AIRSCW 2381 : (2000) AIRSCW 912 : (2000) 2 JT 201 : (2000) 126 PLR 462 : (2000) 1 SCALE 580 : (2000) 2 SCC 725 : (2001) 3 Supreme 493 : (2000) 5 Supreme 17

Hon'ble Judges : V. N. Khare, J;S. P. Bharucha, J

Bench : Division Bench

Final Decision : Disposed Of

Judgement

1. This writ petition by a retired government servant impugns, to put it in general terms, the manner in which the Central Government Health Scheme (CGHS) treats ailing pensioners.

2. The first specific challenge is aimed at an office memorandum dated 11-6-1997 on the subject of simplification of the procedure for referral to recognised hospitals. The two clauses which are assailed read thus:

"(iii) In case of a medical emergency, the details of which shall be recorded in writing by the CMO in charge of the CGHS dispensary, the CMO concerned may directly (i.e. even before specialist''s advice has been obtained) refer the CGHS beneficiary to a private recognised hospital for further management/treatment.

(iv) The expenditure to be reimbursed by the parent department/office/CGHS Directorate, as the case may be, would be restricted to the package deal rates/ rates approved by the Government from time to time. The expenditure in excess of the approved rates/package deal would have to be borne by the beneficiary himself/herself."

3. Our attention was drawn by the learned counsel for the Union of India to the

affidavit-in-reply to the writ petition and to the circulars annexed thereto. The affidavit states, based on an OM dated 11-6-1997, that in the case of an emergency, the Chief Medical Officer in charge of a CGHS dispensary may directly refer a beneficiary of the Scheme to a private recognised hospital for further treatment. Attention is also drawn to an office memorandum dated 7-4-1999 wherein, in clauses (2), (5) and (6), much relief has been given. The same circular provides, in the part thereof, relating to ex post facto approvals, for emergency situations. We think that these provisions take reasonably adequate care of what has been pointed out on behalf of the petitioner.

4. The next charge is directed at an office memorandum dated 16-8-1994 that deals with the reimbursement to beneficiaries of the Scheme of claims relating to medicines that fall outside the CGHS formulary. Insofar as the beneficiaries of the Scheme other than retired government servants and freedom fighters are concerned, they can procure such medicines directly from a registered chemist and claim reimbursement, on the strength of a filled-in pro forma, from the service head of their respective ministry, department or office. Insofar as retired beneficiaries under the Scheme are concerned, however, medicines that fall outside the CGHS formulary have to be got indented by the CGHS dispensary concerned. The contention on behalf of the petitioner is that this procedure of indentation takes much time so that the medicine cannot be taken in good time. That this is so, is admitted in the affidavit-in-reply, but it is stated therein that in the case of an emergency, such medicines can be obtained from the local chemist concerned immediately on the basis of an authority slip from the CMO in charge of the CGHS dispensary. This is stated in the affidavit, but it does not seem to be notified on any circular or office memorandum. We direct that this should immediately be done.

5. The third charge is made in regard to a modified Form 97 applicable to applications for reimbursement. The complaint is that such modified forms are not available everywhere. The reply in the counter is that medical reimbursement claims are received and payments are made even in the absence of these modified forms and based on the old forms. We see no reason to doubt the statement.

6. The last grievance, and it is of some note, is that a beneficiary of the Scheme will receive reimbursement only at the rate approved by the CGHS, regardless of the fact that in his particular town or city there are only private hospitals and no government hospital; there is, therefore, no option for him but to enter a private hospital for such treatment. It is also submitted that the approved rates are not updated by the CGHS from time to time so that what the beneficiary receives by way of reimbursement can be substantially less than the cost that has actually been incurred upon his hospitalisation. While there is, we think, merit in the submission, it is not for us to dictate what should be done. We direct that the Union of India shall immediately consider this aspect and give appropriate directions thereon. It would clearly be appropriate for it to update its approved

rates on an annual or, at least, biennial basis.

7. Order on the writ petition accordingly.

