
(2002) 02 SC CK 0060

In the Supreme Court Of India

Case No : Writ Petition (C) No. 411 Of 2001

Kuldip Singh

APPELLANT

Vs

Union of India (UOI)

RESPONDENT

Date of Decision : 07-02-2002

Acts Referred:

Supreme Court Judges (Salaries and Conditions of Service) Rules, 1959 — Rule 5
Supreme Court Judges (Salaries and Conditions of Services) Act, 1958 — Section 23C

Citation : (2002) 93 FLR 338 : (2002) 2 JT 506

Hon'ble Judges : Shivaraj V. Patil, J;B. P. Singh, J;B. N. Kirpal, J

Bench : Full Bench

Final Decision : Dismissed

Judgement

1. This writ petition has been filed by a retired judge of this Court and it pertains to the availability of the medical facilities after retirement.

2. According to the Supreme Court Judges Rules, 1959, the facilities for medical treatment and accommodation in hospitals is provided in rule 5 which reads as follows:

"5. Facilities for medical treatment and accommodation in hospitals: In respect of facilities for medical treatment and accommodation in hospitals, the provisions of the All India Services (Medical Attendance) Rules, 1954 shall apply to a judge as they apply to a member of the Indian Administrative Service and shall be deemed to have come into force on the 26th January, 1950.

[Provided that the medical expenses shall be reimbursed on prescription of government doctors/hospitals or (registered medical) practitioners/private hospitals by the registry of the Supreme Court of India]."

3. Section 23C of the Supreme Court Judges (Salaries and Conditions of Services) Act, 1958, refers to the medical facilities which are available for retired judges and the same reads as follows:

"23C. Medical facilities for retired judges:

Every retired judge shall, with effect from the date on which the Supreme Court Judges (Conditions of service) Amendment Act, 1976, receives the assent of the President, be entitled, for himself and his family, to the same facilities as respects medical treatment and on the same conditions as a retired officer of the central civil services class-I and his family, are entitled under any rules and orders of the central government for the time being in force."

4. In the writ petition, the prayer which was made is that a declaration should be issued to the effect that the aforesaid proviso to Rule 5 should be made applicable to the retired judges of this Court and that the provisions of Section 23C of the said Act, of 1958, should be struck down.

5. It may here be noted that according to the provisions of the central government health scheme rules, the learned Attorney General informs us that there is a power of relaxation contained in the said rule which would enable a CGHS card-holder to ask for relaxation on his getting treatment from a private hospital or a doctor. It is, therefore, not as if it is compulsory for the CGHS card-holder to invariably go only to a government hospital.

6. In respect of medical facilities to the retired judges of this Court an office memorandum dated 6th February, 2002, has been issued which has been placed on record. The said memorandum reads as follows:

"The undersigned is directed to refer to ministry of law, justice and company affairs' OM No. L....1017/1/95-Jus. dated 26.10.95 on the subject mentioned above and to say that the matter of sanctioning medical reimbursement claims of retired chief justices of India and judges of the Supreme Court was under review of this department. It has now been decided in consultation with the ministry of law, justice and company affairs, department of justice, to delegate powers of relaxation of rules for sanctioning medical reimbursement claims, in respect of retired chief justices of India and judges of the Supreme Court holding CGHS pensioner's card to the registrar general of the Supreme Court who will exercise this power with the prior approval of the chief justice of India or his nominee.

2. The reimbursement of medical expenses to the retired chief justices of India and judges of the Supreme Court holding CGHS pensioner's card would also be made by the Supreme Court registry.

3 This issues with the concurrence of the Dept. of expenditure vide their U.O. No. 11 (1)-MD/2001 dated 5.2.2002."

7. Learned attorney general states that the effect of this memorandum is that instead of claiming relaxation or reimbursement from the government the said power of relaxation of the rules has been given to the registrar general of this Court who will exercise this power with the prior approval of the Chief Justice of India or his nominee. We uphold the submission of the learned Attorney General and hold that the practical effect of this would be that like in the cases of the

proviso to rule 5, the retired chief justices and the judges of this Court, would now be entitled to reimbursement of the medical expenses on prescription of government doctors/hospitals or registered medical practitioners/private hospitals. The sanctioning authority will now be the registrar general with the approval of the Chief Justice of India or his nominee and the extent of the benefit which the retired chief justices and the judges will be entitled to would be the same as is available to a sitting judge

8. In view of the aforesaid memorandum dated 6th February, 2002, which has now been issued and the effect of the same as spelt out by the learned Attorney General, it is not necessary to go into the various contentions raised in the writ petition and Mr. P.H. Parekh, the learned counsel appearing for the petitioner does not press the prayers contained therein. This writ petition is now disposed of in the aforesaid terms. The registry shall inform the retired chief justices and the judges of this Court or their spouses as to the medical facilities which would now be available. We would like to place on record our appreciation for efforts of the law minister and the learned Attorney General in sorting out the issue without any intervention of the court.