
(2013) 03 CHH CK 0011
In the Chhattisgarh High Court
Case No : Writ Petition (S) No. 2365 of 2012

Pradeep Singh Rathor

APPELLANT

Vs

State of Chhattisgarh and Others

RESPONDENT

Date of Decision : 19-03-2013

Acts Referred:

Citation : (2013) 1 CG.L.R.W. 255 : (2013) LTC 2

Hon'ble Judges : Prashant Kumar Mishra, J

Bench : Division Bench

Advocate : A.K. Patil, for the Appellant; Rahul Tamaskar, Panel Lawyer, for the Respondent

Final Decision : Allowed

Judgement

Prashant Kumar Mishra, J.—Heard. The petitioner is working as AG-III in Government Regional Press, Rajnandgaon. His father, a Government servant retired in the year 2007, suffered serious ailment and was treated in Chandulal Chandrakar Memorial Hospital, Bhilai from 10-9-2011 to 26-9-2011. Unfortunately, his father died on 26-9-2011 in course of treatment.

2. The petitioner incurred expenditure of Rs. 1,04,866.80/- in course of treatment of his father for which he applied before his employer i.e. the State of Chhattisgarh for reimbursement. By Annexure-P/1, dated 3-2-2012 and Annexure-P/3, dated 21-3-2012, his application for reimbursement has been refused/rejected on the ground that his father being a retired Government servant, could not be treated as family member as he was entitled to obtain free medical treatment in a Government hospital.

3. In the return filed by the respondent/State, it has been stated that the matter of reimbursement of medical bills is governed by the CG Civil Services Medical (Attendance) Rules, 1958 (for short "the Rules, 1958"), in which it is clearly mentioned under Rule 1 (3) (a) that a retired Government servant is not entitled for the benefits contained in the Rules, 1958.

4. In the matter of State of M.P. and Others Vs. M.P. Ojha and Another, the Hon"ble Supreme Court, dealing with same set of Rules, has repelled the contention that the father who is a retired Government servant when lived with his son who is also a Government servant, could not be treated as wholly dependent within the meaning of word "family" under Rule 2 (d), as he is not wholly dependent on the family as father himself was a pensioner. After considering the rival submission, it has been held that the expression "wholly dependent" is not a term of art. It has to be given its due meaning with reference to the Rules in which it appears. We need not make any attempt to define the expression "wholly dependent" to be applicable to all cases in all circumstances. We also need not look into other provisions of law where such expression is defined. That would likely to lead to results which the relevant Rules would not have contemplated. The expression "wholly dependent" has to be understood in the context in which it is used keeping in view the object of the particular Rules where it is contained. We cannot curtail the meaning of "wholly dependent" by reading into this the definition as given in SR 8 which has been reproduced above. Further, the expression "wholly dependent" as appearing in the definition of "family" as given in Medical Rules cannot be confined to mere financial dependence. Ordinarily dependence means financial dependence but for a member of family it would mean other support, may be physical, as well. To be "wholly dependent" would therefore include both financial and physical dependence. If support required is physical and a member of the family is otherwise financially sound he may not necessarily be wholly dependent. Here the father was 70 years of age and was sick and it could not be said that he was not wholly dependent on his son. Son has to look after him in his old age. Even otherwise by getting a pension of Rs. 414/- per month which by any standard is a paltry amount it could not be said that the father was not "wholly dependent" on his son. That the father had a separate capacity of being a retired Government servant is immaterial if his case falls within the Medical Rules being a member of the family of his son and wholly dependent on him. A flexible approach has to be adopted in interpreting and applying the Rules in a case like the present one. There is no dispute that the son took his father to Bombay for treatment for his serious ailment after getting due permission from the competent authority. It was submitted before us that the father being a retired Government servant could himself get sanction for treatment outside the State as a special case from the competent authority. It is not necessary for us to look into this aspect of the matter as we are satisfied that under the relevant Medical Rules, the father was member of the family of his son and was wholly dependent on him and the 2nd respondent was thus fully entitled to reimbursement for the expenses incurred on the treatment of his father and other travelling expenses.

5. In view of the law laid down by the Hon"ble Supreme Court while dealing with same set of Rules wherein the father, a retired Government servant himself, has been treated as dependent of his son, a Government servant, this writ petition is squarely covered by the aforesaid judgment. In view of the foregoing, the writ

petition is allowed. The competent authority shall consider the prayer for reimbursement of medical bills in accordance with the above discussion and release the same after examining the fact that the treatment has been obtained from recognized medical institution.