

(2011) 01 DEL CK 0204

In the Delhi High Court

Case No : Writ Petition (C) No. 1613 of 2007

Sh. Ashok kumar Chadha

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 07-01-2011

Acts Referred:

Citation : (2011) 177 DLT 675 : (2011) 4 LLJ 347

Hon'ble Judges : Manmohan Singh, J

Bench : Single Bench

Advocate : Neeraj Grover, for the Appellant; Ravinder Aggarwal and Nitish Gupta, for the Respondent

Final Decision : Allowed

Judgement

Manmohan Singh, J.—The present Writ Petition was filed under Article 226 of the Constitution of India praying to the Court to issue a writ of mandamus for the following reliefs :

(i) Directing the Respondents to create a supernumerary post for the Petitioner under the provisions of Section 47(1) (proviso) of The Persons with Disability (Equal Opportunities, Protection of Rights & Full Participation) Act 1995.

(ii) Directing the Respondents to reimburse all medical claims of the Petitioner for the amount spent from time to time for the treatment in the Hospital, reimbursement of total expenses borne by the Petitioner on airlifting as a stretcher patient (allowed and paid partially while the Petitioner was entitled to full reimbursement) and for the expenses incurred on the nursing care administered to the Petitioner after being discharged from the Hospital.

(iii) Directing the Respondents to reimburse the sum of Rs. 16,760/- incurred on the treatment of Petitioner's son for dengue in a CGHS recognized Hospital.

(iv) Directing the Respondents to restore the quantum of accumulated leave as was claimed to have been utilized pursuant to the accident of the Petitioner on

04.06.2005.

2. The facts of the case are that the Petitioner was working at the CPWD (Central Public Works Department) since 1974. On 04.06.2005 the Petitioner who was posted as an Assistant Engineer, Guwahati, Central Sub Division II, CPWD, Guwahati suffered a serious road accident while returning from the office and was admitted in Hospital in an emergency condition.

3. He suffered serious head injuries with left nasal and ear bleeding and was put on ventilator support. On 21.06.2005 the condition of the Petitioner did not improve and his brain fluids were constantly increasing to a dangerous level therefore he was advised to be taken to New Delhi for further treatment in an excellent Neurological set up with best medical equipments so, he was airlifted from Guwahati to New Delhi on the next day as a stretcher patient with his son and one accompanying doctor deputed by the emergency department Down Town Hospital, Guwahati for transit care of the Petitioner with continuous oxygen support in the flight.

4. On reaching Delhi, he was admitted in Sir Ganga Ram Hospital (for short SGRH) in the Neurology Intensive Care Unit.

5. The Petitioner's family on 25.08.2005 requested the SGRH, New Delhi, to permit the Petitioner to be shifted to some other CGHS approved Hospital for neurosurgery.

6. The Petitioner in a Persistent Vegetative State was discharged from SGRH on 09.09.2005 and was taken to his residence where on the advice of the treating doctors of SGRH he was administered with round the clock excellent domiciliary nursing care, physiotherapy and rehabilitation diet for which the arrangements were made by the family of the Petitioner.

7. The Petitioner was admitted at Maharaja Agrasen Hospital from 16.09.2005 to 04.10.05 as his condition had deteriorated and after being discharged was again advised to be administered with round the clock domiciliary nursing care, physiotherapy and rehabilitation.

8. While the condition of the Petitioner still did not improve, his son was diagnosed to be suffering from Dengue Hemorrhagic Fever and was admitted at Maharaja Agrasen Hospital for his treatment from 31.10.2005 to 04.11.2005.

9. The Petitioner's wife on 05.12.2005 issued a letter to the Executive Engineer, GCD, CPWD, Guwahati requesting to process the Petitioner's pending medical claims. The Executive Engineer, GCD, CPWD, Guwahati wrote a letter to the Superintending Engineer, Assam Central Circle, Guwahati on 22.12.2005 to explain him the pressing circumstances of the Petitioner and to seek his opinion in respect of the claim for reimbursement of the Petitioner's son's medical expenses.

10. The Petitioner's wife, on 05.03.2006 wrote another letter for the settlement

of the Petitioner's medical claims. The Executive Engineer, GCD, CPWD, Guwahati, under the advice of DGHS wrote a letter to the Director General Health Services Ministry of Health and Family Welfare on 04.04.2006 to seek settlement of the claim for Petitioner's Son's medical claim as the same had been received back from Chief Engineer, Shillong on 13.03.2006.

11. On 25.06.2006 the Petitioner's wife wrote a letter to the Chief Engineer, NEZ, Shillong with a copy to the Executive Engineer, GCD, CPWD, Guwahati, to seek to facilitate the medical claims and to know the exact status of the same and to enquire whether any further documents of formalities were required. On 29.06.2006 she again wrote to Chief Engineer, NEZ Shillong for the permission of MRI and other diagnostic tests of the Petitioner.

12. She got a letter from the office of Chief Engineer, NEZ Shillong asking for original tickets in respect of claim No. 2 and this letter was replied with observations that the original tickets had already been deposited with the Executive Engineer, GCD, CPWD, Guwahati. And on 27.07.2006 Office of Chief Engineer, NEZ Shillong sent a letter to the Executive Engineer, GCD, CPWD, Guwahati to delegate the reimbursement of claim No. 4 to the Superintending Engineer, Assam Central Circle 1, and enclosed the claim along with the letter.

13. The Director General of Works, CPWD, Nirman Bhawan vide office order No. 172/05 dated 03.08.2006 transferred the Petitioner from Guwahati Central Division to the Northern Region for further posting.

14. The Petitioner's wife vide letter dated 28.08.2006 once again issued a reminder to the Executive Engineer, GCD, CPWD, Guwahati to expedite the reimbursement of Petitioner's medical claims. The Executive Engineer, GCD, Guwahati, on 12.09.2006 sent a demand draft of Rs. 8.65,572/- in favour of the Petitioner for the reimbursement of expenses incurred towards his treatment at Sir Ganga Ram Hospital for the period 22.06.2005 to 09.09.2005.

15. On 08.11.2006 the Petitioner's wife approached the Addl. Director General (NR) CPWD, New Delhi and there, as per the Petitioner, she was asked to give a request in writing that the Petitioner would opt for Voluntary Retirement once the posting is decided.

16. Vide office order No. 313 dated 12.09.2006 the Petitioner's family was informed that the Petitioner was posted with the office of CPWD at Vigyan Bhawan, New Delhi.

17. It is stated in the petition that on 20.11.2006 the Petitioner's wife approached the S.E. CPWD, Vigyan Bhawan to submit the joining report of the Petitioner but the report was not acknowledged as she refused to write another undertaking that the Petitioner would take Voluntary Retirement immediately after joining.

18. Vide office order dated 27.12.2006 the Petitioner was though taken on rolls as A.E., CPWD, Vigyan Bhawan, but his joining was deferred till the time he

appears in person with a fitness certificate.

19. The Petitioner's wife being aggrieved by the said order, filed the present writ petition as the salary of the Petitioner had been discontinued from October 2006.

20. The petition was first time listed on 02.03.2007 when the notice was issued to the Respondents. But unfortunately on the same day, the Petitioner passed away. The legal heirs of the Petitioner were brought on record vide order dated 20.04.2007.

21. The Petitioner had made the following claims in the present petition :

(i) Claim towards complete medical reimbursement. The details of the claims raised by the Petitioner for the reimbursement of the expenses incurred towards his medical treatment when alive are as under :

S. No.

Name of Hospital

Period of treatment

Amount claimed

Amount received

Difference of amount

1.

Down Town Hospital, Guwahati

4/6/05 to 14/6/05

Rs.1,53,878/-

Rs.1,00,146/-

Rs.53,732/-

2.

Down Town Hospital, Guwahati

15/6/05 to 22/6/05

Rs.1,02,115/-

Rs.75,096/-

Rs.27,019/-

3.

Sir Ganga Ram Hospital, N. Delhi

22/6/05 to 9/9/05

Rs.11,50,840/-

Rs.8,60,572/-

Rs.2,90,268/-

4.

Maharaja Agrasen Hospital, N. Delhi.

9/9/05 to 4/10/05

Rs.1,91,252/-

Rs.1,77,167/-

Rs.14,085/-

Total

Rs.15,98,085

Rs.12,12,981

Rs.3,85,104

(ii) His salary/backwages for the period of 05.06.2005 to 02.03.2007 i.e. for 21 months as he was entitled to be kept on a supernumerary post in terms of the provisions of Section 47(1) of The Persons with Disability (Equal Opportunities, Protection of Rights & Full Participation) Act 1995.

(iii) Claim for expenses incurred on the nursing attendant/domiciliary care, physiotherapy, consumables, diet etc. at the rate of Rs. 25000/- month which includes Rs. 18000/- per month for round the clock nursing care, Rs. 3500/- towards the physiotherapist and Rs. 3500/- per month towards the consumables.

(iv) Claim towards reimbursement of Rs. 16,760/- with interest incurred on the treatment of the Petitioner's son.

(v) Claim of Rs. 71,716/- towards airlifting charges of the Petitioner from Gawahati to Delhi.

22. The main contention of the Respondents is that each of the claims raised by the Petitioner has to be decided on the touchstone of the existing policy. It is only if the claims raised are in consonance with the extant policy then the same is to be allowed. According to the counsel there is a ceiling limit on reimbursement of various medical expenses and financial resources of Government of India are limited.

23. In response to the Petitioner's claims the Respondents have submitted that the medical claims have been settled as per CGHS Package/Rates applicable to its beneficiaries. In regard to the second claim of the Petitioner for creation of supernumerary post under provision of Section 47(1) of The Persons with

Disability (Equal Opportunities, Protection of Rights & Full Participation) Act 1995 the Respondents have submitted that as per the records available, no such request was made by the Petitioner to the Department and the relief was sought only through the present petition. Further it has been submitted that neither the services of the Petitioner were dispensed with nor his rank was reduced at any stage, thus the Petitioner was not entitled for the benefits of disability as per The Persons with Disability (Equal Opportunities, Protection of Rights & Full Participation) Act 1995 as the disability was not acquired in the due performance of the official duties.

24. In response to the third claim of the Petitioner for reimbursement for the nursing care taken at home the Respondents have stated that no such claim was submitted by the Petitioner to the Department.

25. Regarding the fourth claim for the reimbursement of Rs. 16,760/- spent on the treatment of the Petitioner's son it has been submitted by the Respondents that in this regard the required documents called for vide CE (NEZ) letter No. 3/7/2005-Admn. dated 09.11.2005 and EE, Guwahati Central Division" letter No. 2(30/GCD/2005/4068 dated 16.12.2005 have not been supplied. The last and the fifth claim regarding the reimbursement of air lifting charges the Respondents have submitted that an amount of Rs. 59,837/- vide cheque No. 997819 dated 18.11.2008 has been paid to the wife of the Petitioner for the same.

26. As regards the Petitioner's claim for full reimbursement of expenses incurred on airlifting the Petitioner, it is submitted by the learned Counsel for the Respondents that the reimbursement of the travelling expenses of one attendant is permitted and since the Petitioner was accompanied by two attendants the expense of second attendant could not be reimbursed.

27. Similarly, it was also submitted that the reimbursement of the expense incurred towards the treatment of Petitioner's son the same had to be processed as per rules on submitting the requisite document.

28. It is stated by the Respondents that the Petitioner has claimed a total sum of Rs. 16,69,801/-, and against the said amount the Petitioner has already been reimbursed a sum of Rs. 13,88,940/- which is the maximum amount that can be reimbursed as per the prevalent CGHS/AIIMS. The detail of the said amount reimbursed is already given as annexure "A" in the additional affidavit filed on 25th August, 2009.

29. The issue of imposition of ceiling limit of reimbursement of medical expenses came before the Apex Court in the case of State of Punjab and Others Vs. Ram Lubhaya Bagga Etc. Etc., and the validity of the policy was upheld by the Supreme Court as mentioned in para 23 and 27 of the judgment.

30. In response to the judgment referred by the Petitioner in the case of Surjit Singh Vs. State of Punjab and Others, and State of Punjab and others Vs.

Mohinder Singh Chawala, etc., the learned Counsel for the Respondents has explained that both the cases have been distinguished by the Apex Court in the case of Ram Lubhaya's (supra).

31. Before further discussion in the matter there are certain admitted facts in the matter. The detail of the same are given as under :

a. The Petitioner (since deceased on 02.03.2007; the date of issuance of notice of the present petition) was a government employee and a beneficiary of Central Government Health Scheme.

b. The Petitioner while being posted at CPWD, Guwahati, Assam suffered a serious road accident on 04.06.2005 and lost his consciousness immediately due to internal head injury.

c. He was admitted at Down Town Hospital, Guwahati by passersby and immediately put on ventilator support. During his stay at the Down Town Hospital, two major brain surgeries were performed by the Doctors for removal of blood clots but the Petitioner did not regain consciousness.

d. After about two weeks, the Petitioner was advised to be shifted to an ICU set up in Delhi and thus was airlifted to Delhi on 22.06.2005 on an Indian Airlines flight and admitted in ICU setup at Sir Ganga Ram Hospital, New Delhi.

e. The Petitioner had gone into a Persistent Vegetative State and was treated as SGRH, New Delhi till about 09.09.2005 whereafter he was shifted to his residence still continuing in persistent vegetative state wherein he was not at all able to use his mental faculties, was not able to recognize anybody, nor was able to sit, walk or speak but was bed ridden even to the extent that he was being fed through a tube in the stomach, was passing urine through catheter but was continuing to breathe normally and undergoing normal sleep wake cycles.

32. It is not in dispute that when the present writ petition was filed the Petitioner was alive and also sought the various reliefs inter alia

(i) Creation of a supernumerary post under the provisions of Section 47 of the Person with Disabilities (equal opportunities, protection of rights and full participation Act, 1995.

(ii) Seeking full reimbursement of the medical claims filed by the Petitioner from time to time against the amount spent for treatment in Hospitals.

(iii) Seeking a reimbursement of the Air-Travel expenses for airlifting the Petitioner as a stretcher patient from Guwahati to New Delhi.

(iv) Seeking reimbursement of the expenses for nursing care administered to the Petitioner after being discharged from the Hospital.

(v) For seeking reimbursement of the sum incurred on the treatment of the Petitioner's son for dengue in CGHS recognized Hospital.

(vi) For seeking restoration of the quantum of accumulated leave as was claimed to have been utilized for grant of leave to the Petitioner pursuant to the accident.

However due to fatal condition the Petitioner succumbed to his injuries on 02.03.2007 i.e. when the present petition was listed before the Court. During the pendency of the writ petition the claim of the Petitioner seeking reimbursement of the air travel expenses to the tune of Rs. 71,716/- has been partially allowed and payment of Rs. 59,879/- has been received.

33. Mr. Neeraj Grover, counsel for the Petitioner has argued that the Petitioner was entitled for full reimbursement of the expenses incurred against the claims of hospitalization, for period of 04.06.2005 till 04.10.2005 which have been allowed partially. It is the admitted case of the parties that an amount of Rs. 13,88,940/- stands paid to the Petitioner till date against the total claims of Rs. 16,69,801/-. It is also an admitted position that the difference of Rs. 2,80,861/- has not been paid to the Petitioner as the reimbursement has been allowed only as per the rates prevailing at AIIMS New Delhi while the treatment was taken at Sir Ganga Ram Hospital in Emergency and thereafter at Maharaja Agrasen Hospital for which permission was granted to the Petitioner. The fact of the details of payments is reflected in affidavit dated 26.08.2009 filed on behalf of the Respondents.

34. It is argued that the Petitioner was entitled to full reimbursement of the medical expenses incurred inasmuch as the treatment was taken at private Hospital in absolute state of emergency which is not disputed by the Respondents and is in fact duly mentioned in letter dated 14.06.2007 and also in letters dated 04.04.2006 and 22.12.2006.

35. Further the severity of the situation is duly reflected from the photographs of the Petitioner duly placed on the record. Therefore, the case of the Petitioner is duly covered under various pronouncements of the Supreme Court and also of this Hon''ble Court on this aspect wherein it has been held that a government servant who seeks medical treatment in a private hospital in emergency and under compelling circumstances, is entitled to full reimbursement of the expenses incurred and should not be burdened with the difference of charges between those charged by AIIMS Delhi and private institutes.

36. After having examined the relevant documents on record regarding the condition of the Petitioner after the accident, it is evident that the treatment taken at the private hospitals was in extremely emergent situation and the same was not planned.

37. The case of the Petitioner is further fortified with some the relevant judgments which are as under :

(i) Surjit Singh Vs. State of Punjab and Others, ; wherein it was held :

Government cannot insist on an employee to get himself treated at recognized government institution and claim rates prevailing there. The Hon''ble Court

further observed:

Self preservation of one's life is the necessary concomitant of the right to life enshrined in Article 21 of the Constitution of India, fundamental in nature, sacred, precious and inviolable.....(para 10) The Appellant did not have to stand in long queue before the medical board, the manning and assembling of which bare-facedly, makes meetings difficult to happen. That applicant also did not have to stand in queues of Government hospital at AIIMS and could go elsewhere to an alternate hospital as per policy.

(ii) Mohinder Singh Chawla (supra), wherein it was held :

Right to health is an integral part of right to life. Government has constitutional obligation to provide health facilities. If the government servant has suffered an ailment which requires treatment at a specialized approved hospital and on reference whereat the Government servant had undergone the treatment therein, it is but the duty of the State to bear the expenditure incurred by the government servant. Expenditure thus incurred requires to be reimbursed by the state to the employee. Having the constitutional obligation to bear the expenses for the government servant while in service or after retirement from service, as per the policy of the Government, the government is required to fulfill its constitutional obligations. Necessarily, the state has to bear the expenses incurred in that behalf. The Hon'ble Apex Court observed as under :

Take for instance, a case where an inpatient facility is not available in a specialized hospital and the patient has to stay in a hotel while undergoing the treatment, during the required period, as certified by the doctor, the expenses incurred would be integral part of expenditure incurred towards treatment." (para 4) "It is incongruous that while the patient as admitted to undergo treatment and he is refused the reimbursement of the actual expenditure incurred towards the room rent and is given the expenditure of the room rent chargeable in another institute whereat he had not actually undergone treatment. (para 11)

(iii) Narendra Pal Singh Vs. Union of India and Others, wherein it was held :

Right to health is an integral part of right to life. In case of emergency treatment, it is the duty of Govt. to grant ex-post facto sanctions and not deny the claim of Petitioner on technical and flimsy grounds.

The aforesaid judgments have been consistently followed by this Hon'ble Court in a catena of cases which may briefly be listed as follows :

(a) M. G. Mahindru v. UOI 92(2001)DLT 59 - Benefit of full medical reimbursement cannot be denied to government servant.

(b) Shri V.K. Gupta Vs. Union of India (UOI) and Another, - Petitioner who was referred to Escorts Hospital found entitled to full reimbursement of medical expenses incurred for treatment.

(c) Smt. Kamlesh Sharma Vs. Municipal Corporation of Delhi and Another, - In cases of emergency, the attendants or patient is certainly not expected to wait for a reasonable time as per usual procedure.

(d) Prithvi Nath Chopra v. UOI 111(2004) DLT 190 - Due to non-availability of doctor at Referred hospital, the Petitioner took his wife in emergency to private hospital. Petitioner cannot be deprived of full reimbursement of the charges charged by the said hospital. Petitioner entitled to be reimbursed the amount as billed by Apollo Hospital.

(e) Sqn. Commandar Randeep Kumar Rana Vs. Union of India (UOI), - Treatment taken at Escorts hospital pursuant to recommendation made by Govt. Hospital. Once Respondent themselves recommend the Petitioner's son for treatment at Escorts Hospital, they cannot deny full reimbursement. They cannot deny their liability to pay to Government employee who is entitled to medical reimbursement.

(f) Milap Singh Vs. Union of India (UOI) and Another, - CGHS Scheme; Petitioner suffered heart attack during morning walk. Admitted to Escorts Hospital. Held entitled to full reimbursement of expenses incurred on treatment.

(g) J.K. Saxena Vs. Government of NCT of Delhi, -Petitioner found entitled to full reimbursement of medical expenses.

38. After considering the cases referred by the Petitioner including the case of Ram Lubhaya Bagga (supra) I am of the view that the Petitioner was also entitled to full reimbursement of expenses incurred at Maharaja Agrasen Hospital as none of the hospitals i.e. AIIMS, RML were stated to be agreeable to give a room to the Petitioner keeping in view his helpless condition. Thus in equity and fairness, the Petitioner is entitled to reimbursement of the aforesaid expenses, as a special case, without creating any precedent as the present case covers the four corners of the exceptional case of Ram Lubhaya Bagga (supra).

The following observations were made by the Supreme Court in the case of Mohinder Singh Chawla (supra) wherein the Hon'ble Supreme Court observed :

Take for instance, a case where an inpatient facility is not available in a specialized hospital and the patient has to stay in a hotel while undergoing the treatment, during the required period, as certified by the doctor, the expenses incurred would be integral part of expenditure incurred towards treatment.

39. As regard the reimbursement of a sum of Rs. 16,760/- spent on the treatment of the Petitioner's son for dengue in a CGHS recognized hospital is concerned, admittedly his young son aged around 21 years was inflicted with acute and fatal disease dengue hemorrhagic fever in October, 2005. He was initially treated by CGHS dispensary doctors but had to be rushed to Maharaja Agrasen Hospital (duly recognized under CGHS) as his platelet count had fallen drastically to 19,000 against normal platelet count of 1,50,000. Such drastic fall in platelet count had proved fatal in many cases of Dengue in Delhi, further the

request for grant of post facto permission for taking treatment at Maharaja Agrasen Hospital, Punjabi Bagh, New Delhi was duly faxed to the HOD of the Petitioner on the same day when his son was admitted to the hospital. The medical claim for the amount spent on the treatment for Rs. 16,760/- was also submitted on 25.11.2005. Thus, the claim raised in this regard cannot be treated as non-emergency situation to raise any doubt in the presence of evidence produced. The Petitioner was also entitled for the difference towards the airlifting charges due to the fatal condition. It is admitted position that the Petitioner was accompanied by two attendants, the details of the same have been furnished by him.

40. Regarding the reimbursement of the expenses for nursing care, physiotherapy, medicines etc. administered to the Petitioner after being discharged from the hospital @ Rs. 25,000/- p.m. for 17 months. It has been submitted by the Petitioner's family that they were not able to file a claim for reimbursement of the said amount as under the relevant forms, a claim has to be accompanied by an essentiality certificate from the concerned Hospital which none of the doctors of RML Hospital or even CGHC dispensary were issuing. In fact later on doctors of RML Hospital before whom the Petitioner was regularly taken for check up also denied issuing him any further medical certificates and even prescribe the medicines to the Petitioner on a prescription, in the absence of which even the medicines were not provided by the CGHS Dispensary. This Court is of the view that due to peculiar treatment and care required by the Petitioner being in persistent vegetative state, the claim of the Petitioner is liable to be allowed as the written advice of the Doctor C.S. Agrawal, Sr. Consultant Neurologist at SGRH, New Delhi alongwith the copies of few bills of nurses and other miscellaneous expenses. The Petitioner has also placed on record the copies of letters dated 25.06.2006, 03.07.2006 and 03.01.2007 written by his wife to the Executive Engineer, GCD, CPWD informing and updating him about the condition of the Petitioner and expenses being incurred on nursing care, physiotherapy, consumables, diet etc. @ of Rs. 25,000/- per month.

41. This Court is also not agreeable with the submission of the Respondents that due to the demise of the Petitioner during the pendency of the petition the relief as claimed for the creation of the supernumerary post becomes infructuous. Rather this Court feels that the Petitioner was entitled to the benefit of the provisions of Section 47(1) of the Act from the date of his accident i.e. 04.06.2005 till the date when he passed away. Thus, he is entitled to the salary for the period of 21 months which was not paid to the Petitioner and in turn the accumulated account of the Petitioner in form of Earned Leave and Half Pay Leave was exhausted.

Disabilities Act is a beneficial and benevolent legislation and thus the provisions of the act are liable to be construed liberally and even if two views are possible, the positive view may be preferred as that is the object of the Act.

This High Court in a matter titled as Shri Dilbagh Singh Vs. Delhi Transport

Corporation, held that the definition of "Disability" in the Act qua Section 47 is expansive. Yet in another case titled as Krishan Chander and P.O. Bhainswal Kalan Vs. Delhi Transport Corporation, this Court held that the benefit of Section 47 was maintainable retrospectively even after retirement. The victim was found entitled to half back wages.

42. In support of the submission as referred above, the learned Counsel for the Petitioner argues that the Petitioner in his credit had earned leave of 292 days and Half Pay Leave of 166 days which were exhausted in the process of taking leave from the Respondent from 06.06.2005 till 30.09.2006. The Petitioner was in any case entitled to the benefit of his accumulated leave account as his terminal benefits could not be availed by him as the Respondents claimed to have utilized the same.

43. For the reasons stated above, the present writ petition is allowed and this Court is of the considered opinion that the legal heirs of the Petitioner (deceased) are entitled for the following reliefs :

- a) The difference of Rs. 2,80,861/- towards the medical reimbursement.
- b) Reimbursement of Rs. 16,760/- on the treatment of Petitioner's son.
- c) The difference towards airlifting charges of the Petitioner from Guwahati to Delhi.
- d) Expenses incurred on the nursing attendant/domiciliary case as claimed.
- e) Half back wages for the period from 05.06.2005 to 02.03.2007 as he was entitled to be kept in a supernumerary post in terms of the provisions of Section 47(1) of the Persons with Disabilities Act, 1995.

44. The abovesaid amount be paid within two months from today. The writ petition is disposed of with the aforesaid directions.

45. No costs.