

(2013) 06 JH CK 0058
In the Jharkhand High Court
Case No : WP (S) No. 5186 of 2009

The Union of India and Others

APPELLANT

Vs

Rameshwar Prasad

RESPONDENT

Date of Decision : 11-06-2013

Acts Referred:

Constitution of India, 1950 — Article 21

Citation : (2013) 3 AJR 483 : (2013) 3 JLJR 187

Hon'ble Judges : Prakash Tatia, C.J;S. Chandrashekhar, J

Bench : Division Bench

Advocate : Mokhtar Khan, for the Appellant; R.N. Sahay, for the Respondent

Final Decision : Dismissed

Judgement

1. Heard learned counsel for the parties. The petitioners are aggrieved against the order of Central Administrative Tribunal, Circuit Bench at Ranchi passed in O.A. No. 193 of 2006 whereby the respondents/petitioners were directed to reimburse the medical bill of the applicant/respondent.

2. Learned counsel for the petitioners submitted that the medical reimbursement is governed by the Central Services (Medical Attendance) Rules wherein the retired Government officials have been excluded specifically by making provision in sub-rule 2(iv) of Rule 1. It is submitted that in view of the said Rule the respondent was not entitled to the reimbursement of the medical bill. It is also submitted that there is scheme known as CGHS Scheme. The respondent was entitled to Rs. 100/- per month for the purpose of medical facilities. The respondent was resident of the area covered by the CGHS Scheme. It is also submitted that the respondent when was taking benefit of Rs. 100/- per month, then he was not entitled to any other medical reimbursement.

3. Learned counsel for the respondent/applicant submitted that various High Courts have already decided the issue which includes the issue involving the claim of employee who was getting benefit of Rs. 100/- per month and in that

case also the Division Bench of the Rajasthan High Court in the case of Bodu Ram Jat vs. State of Rajasthan and Ors. reported in 2006 (5) SLR 705 held that such benefit is given for routine medical treatment and it has nothing to do with serious ailment and technicalities should not have been applied by the respondents.

4. Learned counsel for the respondent also relied upon various judgments including the judgment of the Hon''ble Supreme Court delivered in the case of Consumer Education and Research center and others Vs. Union of India and others, , Delhi High Court judgment delivered in the case of S.K. Sharma and Others Vs. Union of India (UOI) and Others, Division Bench judgment of Delhi High Court delivered in the case of 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), , another judgment of the Delhi High Court delivered in the case of V.K. Jagdhari Vs. Union of India (UOI) and Others, Division Bench judgment of the Punjab and Haryana High Court delivered in the case of Gurnam Singh Vs. Punjab Agricultural University and Others, and one detailed judgment of the Delhi High Court delivered in W.P.(C) No. 889 of 2007 in the case of Kishan Chand vs. Govt. of N.C.T. & Others decided on 12.3.2010 (unreported).

5. In the Kishan Chand''s case, the Delhi High Court has considered various earlier judgments and thereafter held as under:--

It is quite shocking that despite various pronouncements of this Court and of the Apex Court the respondents in utter defiance of the law laid down have taken a position that the petitioner is not entitled to the grant of medical reimbursement since he did not opt to become a member of the said health scheme after his retirement or before the said surgery undergone by him. It is a settled legal position that the Government employee during his lifetime or after his retirement is entitled to get the benefit of the medical facilities and no fetters can be placed on his rights on the pretext that he has not opted to become a member of the scheme or had paid the requisite subscription after having undergone the operation or any other medical treatment. Under Article 21 of the Constitution of India, the State has a constitutional obligation to bear the medical expenses of Government employees while in service and also after they are retired.

6. In this case, the respondent admittedly is a retired Government employee and he has undergone bypass surgery in a situation where he could not have obtained prior approval from the Government and it is worthwhile to mention here that petitioner''s case has already been recommended by the petitioner''s department for reimbursement of the bill. In view of the above reasons given in the above judgments, we are of the considered opinion that there is no merit in this writ petition as there is no illegality in the order passed by the Tribunal. Therefore, the writ petition of the petitioners is dismissed.