
(2020) 09 RAJ CK 0020
In the Rajasthan High Court
Case No : Civil Writ Petition No. 9427 Of 2020

Union Of India And Ors

APPELLANT

Vs

Gaffur Mohammad

RESPONDENT

Date of Decision : 08-09-2020

Acts Referred:

Citation : (2020) 09 RAJ CK 0020

Hon'ble Judges : Sabina, J;Chandra Kumar Songara, J

Bench : Division Bench

Advocate : Amit Jindal

Final Decision : Dismissed

Judgement

Petitioners have filed the petition challenging the order dated 17.03.2020 passed by the Central Administrative Tribunal, whereby, Original Application filed by the respondent-applicant was allowed.

We have heard the learned counsel for the petitioners and have gone through the record available on the file carefully.

Learned counsel for the petitioners has submitted that the Tribunal has erred in allowing the original application filed by the respondent. In-fact, Central Services (Medical Attendance) Rules, 1944 (hereinafter referred to as 'the Rules') were not applicable to retired government officials.

Respondent-applicant had filed the Original Application before the Tribunal seeking medical reimbursement vis-à-vis treatment undergone by his wife.

The respondent-applicant was a substantive employee of the postal department and retired from service on 31.03.2009 while working on the post of Postman at Kota City Post Office, Kota Postal Division, Kota. Wife of the respondent-applicant suffered from cardiac problem in the month of October, 2016 and she was admitted in Kota Heart Institute and Research Center, Kota in emergency where she took treatment from 14.10.2016 to 19.10.2016 as an indoor patient. Total

amount of Rs. 2,10,040.75 was incurred on her treatment. The respondent-applicant submitted medical bills of his wife for reimbursement, which were declined by the petitioners vide order dated 21.12.2016. Respondent-applicant filed Original Application No. 02/2017, which was allowed by the Tribunal vide order dated 21.03.2018. Thereafter, the petitioners passed an order on 18.01.2019 for reimbursement of the medical bills of respondent's wife.

Thereafter, wife of the respondent-applicant was again admitted in Kota Heart Institute and Research Center, Kota from 02.10.2018 to 06.10.2018 and from 19.12.2018 to 01.01.2019 and during this period, an amount of Rs. 1,11,690/- was incurred towards her treatment. However, the petitioners again rejected claim of the respondent-applicant for reimbursement of medical bills vide order dated 30.04.2019. Hence, the respondent-applicant filed the Original Application seeking reimbursement of medical bills vis-à-vis treatment of his wife from 02.10.2018 to 06.10.2018 and from 19.12.2018 to 01.01.2019.

Learned Tribunal, while considering the argument raised by the learned counsel for the petitioners that the Rules were not applicable to retired government officials, has observed as under:-

"10. In my considered view, the order dated 30.04.2019 (Annexure-A/1) passed by the respondents cannot be sustained as the same has been passed by the respondents while over- looking the judgement rendered by this Tribunal in O.A. No. 02/2017 on 21.03.2018 whereby it has been held that CS (MA) Rules, 1944 are applicable on retired government servants. The said order has attained finality as the same has already been implemented by the respondents. Even otherwise, the Hon'ble Supreme court in Shiva Kant Jha Vs. Union of India 2018 (2) SCT 529 has held that the government employee during his lifetime or after his retirement is entitled to get medical facilities and no fetters can be placed on his rights. The real test is the factum of treatment."

Learned Tribunal also placed reliance on decision in Shiva Kant Jha vs. Union of India 2018 (2) S.C.T. 529, wherein the Hon'ble Supreme Court held as under:-

"It is a settled legal position that the Government employee during his life time or after his retirement is entitled to get the benefit of the medical facilities and no fetters can be placed on his rights. It is acceptable to common sense, that ultimate decision as to how a patient should be treated vests only with the Doctor, who is well versed and expert both on academic qualification and experience gained. Very little scope is left to the patient or his relative to decide as to the manner in which the ailment should be treated. Speciality Hospitals are established for treatment of specified ailments and services of Doctors specialized in a discipline are availed by patients only to ensure proper, required and safe treatment. Can it be said that taking treatment in Speciality Hospital by itself would deprive a person to claim reimbursement solely on the ground that the said Hospital is not included in the Government Order. The right to medical claim cannot be denied merely because the name of the hospital is not included

in the Government Order. The real test must be the factum of treatment. Before any medical claim is honoured, the authorities are bound to ensure as to whether the claimant had actually taken treatment and the factum of treatment is supported by records duly certified by Doctors/Hospitals concerned. Once, it is established, the claim cannot be denied on technical grounds. Clearly, in the present case, by taking a very inhuman approach, the officials of the CGHS have denied the grant of medical reimbursement in full to the petitioner forcing him to approach this Court."

Thus, so far as the controversy with regard to applicability of the Rules on retired government officials is concerned, the same has already been set at rest by the Apex Court.

In the facts and circumstances of the case, we are of the opinion that the learned Tribunal had, thus, rightly allowed the case of the respondent-applicant seeking reimbursement of medical bills towards expenditure incurred on treatment of his wife.

No ground for interference is made out.

Dismissed.