
(2020) 09 RAJ CK 0021

In the Rajasthan High Court

Case No : Civil Writ Petition No. 9436 Of 2020

Union Of India And Ors

APPELLANT

Vs

Krishan Bairwa

RESPONDENT

Date of Decision : 08-09-2020

Acts Referred:

Citation : (2020) 09 RAJ CK 0021

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 16.03.2020 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 31.03.2012 while working on the post of Postman. Wife of the respondent- applicant suffered from cardiac disease and she was admitted in emergency ward of New Medical College Hospital, Kota where she remained admitted from 24.04.2018 to 28.04.2018 as an indoor patient. Total amount of Rs. 85,756/- was incurred on her treatment. The respondent-applicant

submitted medical bills of his wife for reimbursement, which were declined by Petitioner No. 4 vide letter dated 03.08.2018. Thereafter, the respondent-applicant made a request before Petitioner No. 3, which too was declined vide letter dated 03.10.2018. Respondent-applicant made a further request to Petitioner No. 2, who also rejected the claim of the respondent-applicant vide letter dated 01.02.2019. Hence, the respondent-applicant filed the Original Application seeking reimbursement of medical bills vis-à-vis treatment of his wife from 24.04.2018 to 28.04.2018.

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:-

"9. In Gaffur Mohammad (supra) this Tribunal while holding that CS (MA) Rules, 1944 are applicable upon the retired government servants directed the respondent postal department to reimburse the medical bills in terms of the provisions of said Rules. The said order has already been implemented by the respondents vide order dated 18.01.2019 and reimbursement of medical bills has been made as per the provisions of CS (MA) Rules, 1944. In this view of the matter, the applicant herein cannot be treated differently and, therefore, he is entitled to get reimbursement of medical bills for the expenditure incurred towards his wife's treatment in accordance with the provisions of CS (MA) Rules, 1944.

10. In my considered view, the impugned orders passed by the respondents cannot be sustained as the same has been passed by the respondents while overlooking the judgement rendered by this Tribunal in Gaffur Mohammad (supra) wherein it has been held that CS (MA) Rules, 1944 are applicable on retired government officials. The said order has attained the finality. 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.