

(2020) 08 RAJ CK 0088
In the Rajasthan High Court
Case No : Civil Writ Petition No. 2893 Of 2020

Union Of India And Ors

APPELLANT

Vs

Sandeep Chourasiya

RESPONDENT

Date of Decision : 25-08-2020

Acts Referred:

Citation : (2020) 08 RAJ CK 0088

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

Bench : Division Bench

Advocate : Namita Parihar

Final Decision : Dismissed

Judgement

Petitioners have filed the petition challenging the order dated 27.9.2019 passed by the Central Administrative Tribunal, whereby, Original Application filed by the applicant-respondent was allowed.

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

Respondent had filed the Original Application before the Tribunal seeking medical reimbursement vis-à-vis treatment undergone by his father Kishan Gopal Chourasiya.

Kishan Gopal Chourasiya father of the applicant worked with the Post Office and took voluntary retirement on 31.8.2010. Kishan Gopal Chourasiya was admitted in Intense Care Unit of Santokba Durlabhji Memorial Hospital, Jaipur on 23.10.2017 and died on 5.11.2017. Applicant-respondent got issued CGHS Card (Central Government Health Scheme) in favour of his father Kishan Gopal Chourasiya. Consequently, the benefit of the said card was made available to Kishan Gopal Chourasiya from the date of issuance of card i.e. 2.11.2017 onwards. The Hospital did not charge any amount from the applicant-respondent with regard to treatment undergone by his father Kishan Gopal Chourasiya from

3.11.2017 to 5.11.2017. Hence, the applicant-respondent filed the Original Application seeking reimbursement of medical bills vis-à-vis treatment of his father from 23.10.2017 to 2.11.2017.

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:-

"The respondents cannot decline the reimbursement of the said medical bills as the controversy with regard to applicability of Central Services (Medical Attendance) Rules, 1944 upon retirees of Postal Department has already been set at rest by the Ahmedabad Bench of this Tribunal. The view taken by the Ahmedabad Bench of this Tribunal in this regard has already been affirmed by the Hon'ble Supreme Court, which has further been followed by this Bench of the Tribunal in the case of Ram Swarup Gupta (OA No.786/2012 decided on 27.08.2013) and Ramji Lal Sharma vs. UOI & Ors (OA No.657/2016 decided on 22.11.2017). The applicant's father's case cannot be treated differently by the respondent and, therefore, he is entitled to get the reimbursement of medical bills in accordance with the provisions of Central Services (Medical Attendance) Rules, 1944."

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 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 applicant-respondent seeking reimbursement of medical bills towards expenditure incurred on treatment of his father Kishan Gopal Chourasiya.

No ground for interference is made out.

Dismissed.