

In The Hon'ble High Court Of Judicature At Allahabad,
Lucknow Bench, Lucknow

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Neutral Citation No. - 2024:AHC-LKO:83681-DB

Court No. - 1

Case :- WRIT - A No. - 12018 of 2024

Petitioner :- Ram Krishna Srivastava

Respondent :- Central Administrative Tribunal Lko. Bench Lko. And
5 Others

Counsel for Petitioner :- Narsingh Narain Lal, Ambika Prasad Tiwari

Counsel for Respondent :- A.S.G.I., Dipak Seth

Hon'ble Attau Rahman Masoodi, J.

Hon'ble Subhash Vidyarthi, J.

1. Heard Sri Narsingh Narain Lal - the learned counsel for the petitioner and Sri S. B. Pandey learned Deputy Solicitor General of India and Sri Shashank Mishra - the learned counsel for the opposite parties.
2. By means of the instant writ petition, the petitioner has challenged the validity of a judgment and order dated 25.11.2024 passed by the Central Administrative Tribunal, Lucknow Bench, Lucknow in Original Application No. 172 of 2023, whereby the petitioner's claim for reimbursement of medical expenses under Central Government Health Scheme (hereinafter referred to as 'CGHS') was rejected.
3. Briefly stated, facts of the case are that the petitioner retired from the post of Superintendent in Central Excise and Customs Department on 30.06.2000. Since his retirement, the petitioner is residing at Faizabad which is a non-CGHS station. The petitioner was getting Fixed Medical Allowances (FMA). His wife underwent medical treatment in Ram Manohar Lohiya Institute of Medical Sciences at Lucknow between 13.10.2021 to 16.10.2021 and 05.10.2022 to 07.10.2022. On 05.12.2022, the petitioner submitted claims for reimbursement of medical expenses incurred in treatment of his wife during the aforesaid periods. The claims were rejected on the ground that an Office Memorandum dated 12.09.2022 provides that as per extent of

CGHS guidelines, Central government pensioners residing at non-CGHS area have the following options: -

- i They can avail Fixed Medical Allowance(FMA) in lieu of OPD facilities under CGHS.
 - ii They can also avail benefits of CGHS (OPD & IPD) by registering themselves in the nearby CGHS covered city after making the required subscription.
 - iii They also have the option to avail FMA for OPD treatment and CGHS for IPD treatments after making the required subscriptions as per CGHS guidelines.
4. The petitioner's claim was rejected on the ground that he was receiving FMA and he had not enrolled himself under the CGHS scheme and had not made the required subscription as per the CGHS guidelines.
 5. While deciding the original application challenging validity of the rejection of the claim, the Central Administrative Tribunal held that the petitioner has paid subscription for CGHS scheme in the month of November, 2022, whereas, the claims for reimbursement of medical expenses of the petitioner's wife related to a period prior thereto. The petitioner cannot claim reimbursement for expenses of medical treatment availed prior to enrollment under CGHS Scheme and payment of subscription for the Scheme.
 6. Assailing the validity of the aforesaid order passed by the Central Administrative Tribunal, the learned counsel for the petitioner has submitted that the petitioner is a retired person aged about 85 years residing at Faizabad which is a non-CGHS station. The petitioner had no knowledge about the Office Memorandum dated 12.09.2022 and, therefore, he could not apply for registration under the CGHS Scheme and make required subscription as per the CGHS guidelines. The petitioner got himself registered under the Scheme and paid subscription in the month of November, 2022, immediately upon coming to know about the guidelines.

7. The learned counsel for the petitioner has relied upon the judgment passed by the Hon'ble Supreme Court in the case of **Shiva Kant Jha v. Union of India**: (2018) 16 SCC 187, a judgment passed by the Delhi High Court in the case of **B.R. Mehta v. Union of India**: 1999 SCC OnLine Del 354 and the judgment passed by the Madras High Court in the case of **Union of India v. R. Rangarajan**: 2008 SCC OnLine Mad 709.
8. In **Shiva Kant Jha** (Supra), the petitioner was a retired Government employee and he was registered under CGHS Scheme. He had reimbursement of expenses incurred in his treatment in a non-empanelled hospital. The Hon'ble Supreme Court has held that the real test must be a factum of treatment and once it is established that the claim cannot be denied on the technical ground. In that case the retired employee was registered under the scheme while he had availed the treatment facility.
- “17... 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....”*
9. **Shiva Kant Jha** (Supra) was decided in view of the facts of that case, which are not similar to the facts of the present case and it has not been held in **Shiva Kant Jha** (Supra) that even if a person is not enrolled in CGHS Scheme and he has not made the requisite subscription for the Scheme, he would still be entitled to claim reimbursement of medical expenses under the Scheme.
10. In **B.R. Mehta** (Supra) the Chief Medical Officer of District Civil Hospital at Karnal was an Authorised Medical Attendant where the Government servants or the retired servants had to report for treatment which the petitioner did. The Authorised Medical Attendant referred

the petitioner to Escorts Heart Institute & Research Centre at New Delhi for by-pass surgery. Reference was also made to the Directorate General Health Services, Haryana, Chandigarh who accorded the approval for specialised treatment in Escorts Hospital and reimbursement of the medical charges were directed to be made to the petitioner. In view of these peculiar facts of the case, the Delhi High Court held the petitioner entitled to get reimbursement of the medical expenditure, although he did not hold a CGHS card. In the present case, the petitioner does not appear to have consulted any Authorised Medical Attendant and he had not been referred to Ram Manohar Lohiya Instituted by any such Doctor. No reference was made in the petitioner's case to the Directorate General Health Services and no approval had been accorded by the aforesaid authority for specialised treatment in Ram Manohar Lohiya Institute and no order for reimbursement of the medical charges has been passed by the aforesaid authority. Therefore, the facts of the present case are in no manner similar to the facts of **B. R. Mehta** (Supra). Hence the judgment in the case of **B. R. Mehta** (Supra) does not help the petitioner.

11. **Union of India v. R. Rangarajan** (Supra) relied upon by learned counsel for the petitioner relates to the period prior to issuance of the Office Memorandum 12.09.2022 and effect of the aforesaid Office Memorandum has obviously not been dealt with in that judgment. Therefore, this judgment is not relevant for deciding the effect of the conditions mentioned in the Offence Memorandum dated 12.09.2022.
12. Since his retirement in the year 2000, petitioner is residing at a non-CGHS station and he is availing fixed medical allowances in lieu of benefits of CGHS Scheme. The petitioner's wife was treated in a hospital at Lucknow between the periods from 13.10.2021 to 16.10.2021 and 05.10.2022 to 07.10.2022.
13. During the period 13.10.2021 to 16.10.2021, the relevant provisions regarding providing medical facilities to the pensioners were governed by the provisions contained in Office Memoranda Dated 05.06.1998

and 29.09.2016 which were in force at the relevant point of time and which also provide that the pensioners residing at non-CGHS stations and availing fixed medical allowance could also avail the benefit of CGHS (OPD and IPD) by registering themselves at the nearest CGHS city after making the required subscription. It has also given an option to avail FMA for OPD treatment and CGHS for IPD treatment after making the required subscription as per the CGHS guidelines. Admittedly, the petitioner was receiving FMA and he had not registered himself for availing the benefit of CGHS facility and had not made the required subscription. The subsequent Office Memorandum issued on 12.09.2022 also contains similar provisions and the petitioner has got himself registered under the scheme in the month of November, 2022.

14. The Learned counsel for the petitioner has submitted that the petitioner has raised the claim for reimbursement of medical expense only after getting himself registered under the scheme and, therefore, he is entitled to claim reimbursement. The relevant date for registration would not be the date of raising the claim for reimbursement but it would be the date of incurring expenses which are sought to be reimbursed. Admittedly, the petitioner had not got himself registered under the CGHS scheme while his wife had undergone treatment in the hospital during the periods from 13.10.2021 to 16.10.2021 and 5.10.2022 to 7.10.2024.
15. Therefore, we are of the considered view that the learned Central Administrative Tribunal has not committed any error in holding that the petitioner was not entitled to reimbursement of medical expenses for want of registration and making subscription under the CGHS scheme.
16. The learned counsel for the petitioner has submitted that the Office Memorandum dated 12.09.2022 was not in the knowledge of the petitioner and as soon as the petitioner acquired knowledge thereof, he applied for registration under the scheme and made the requisite subscription.

17. Lack of knowledge of the scheme would not dilute the effect of the provisions contained in the scheme. In case it is mandatory under the scheme for an employee to get himself registered and make the subscription, this provision will be binding even if a person claims ignorance thereof. Moreover, a similar provision was contained in the earlier Office Memorandum issued in the year 2016 and the petitioner had not got himself registered even under the aforesaid Office Memorandum issued in the year 2016 whereas his wife had undergone treatment in the year 2021 that was long after the issuance of the aforesaid Office Memorandum.
18. In view of the foregoing discussion, we are of the considered view that the Central Administrative Tribunal has rightly upheld the decision of the authorities to reject the petitioner's claim for reimbursement of medical expenses incurred in treatment of his wife during the period when the petitioner had not registered himself under CGHS Scheme and had not made the requisite subscription. There is no good ground to interfere in the order passed by the Tribunal.
19. The petition lacks merit and the same is **dismissed**.

(Subhash Vidyarthi, J.) (Attai Rahman Masoodi, J.)

Order Date: 13.12.2024

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