

Neutral Citation No. - 2025:AHC:114343

Court No. - 5

Case :- WRIT - A No. - 9634 of 2025

Petitioner :- Raj Singh

Respondent :- State Of U.P. And 2 Others

Counsel for Petitioner :- Rajesh Kumar Pandey

Counsel for Respondent :- C.S.C.,Tejasvi Misra

Hon'ble Saurabh Shyam Shamsbery,J.

1. Heard Sri Rajesh Kumar Pandey, learned counsel for the petitioner and Sri Tejasvi Misra, learned counsel for the respondents.

2. Petitioner's deceased wife was a retired employee of respondent Ghaziabad Development Authority and before her death, a huge amount of about Rs.45 lakhs was spent on her treatment, therefore, petitioner approached the respondents for its reimbursement, however, by the impugned order dated 26.12.2024, claim of the petitioner was rejected on ground that there is no provision for medical reimbursement after retirement of employee. Contents of order dated 26.12.2024 is reproduced hereinafter:

"कृपया आपके द्वारा अपनी पत्नी स्व० श्रीमती नीलम रानी, वरिष्ठ सहायक की बीमारी के दौरान दिनांक 15.11.2022 से 08.05.2023 के मध्य की अवधि लगभग रु0 45,00,000/- के बिलो का भुगतान कराने हेतु बिलो की छायाप्रति प्रस्तुत की गयी है। इस सम्बन्ध में आपको अवगत करना है कि स्व० श्रीमती नीलम रानी. वरिष्ठ सहायक प्राधिकरण से 60 वर्ष आयु पूर्ण करने पर दिनांक 30.06.2022 को सेवानिवृत्त हो चुकी है। स्व० श्रीमती नीलम रानी, वरिष्ठ सहायक के सेवानिवृत्त हो जाने के उपरान्त चिकित्सा बिला भुगतान हेतु प्रस्तुत

किये गये हैं। अतः कर्मचारी की सेवानिवृत्त होने के उपरान्त बीमारी के कोई भी मैडिकल बिलों का भुगतान किया जाने का प्रावधान नहीं है।"

3. Learned counsel for the petitioner has placed heavy reliance on a judgment passed by a co-ordinate Bench of this Court in Writ -A No.10537 of 2023, Brijesh Bahadur Singh Vs. State of U.P. & Ors, Neutral Citation No.2023:AHC:158603, which was in regard of an employee of Prayagraj Development Authority that all the authorities are bound to follow the provisions of Uttar Pradesh Government Servants (Medical Attendance) Rules, 2011 (in short, 'The Medical Attendance Rules, 2011') and submits that respondent Ghaziabad Development Authority is also bound to follow the 'The Medical Attendance Rules, 2011'. Paragraph nos.27 to 32 of Brijesh Bahadur Singh (supra) is reproduced hereinafter:

*"27. Much before the Retirement Benefit Rules, 2011 were enacted, the question about entitlement to pension of members of centralised service under the Centralised Service Rules, 1985 arose before a Division Bench of this Court at Lucknow in **Praveen Kumar Agarwal and others v. State of U.P. and others, (2011) ILR 1 All 21**. Though, their Lordships found for the retired members of the centralised service a right to receive pension on a plain reading of Section 5-A read with Section 24 of the Act of 1973, the right was held traceable also to the provisions of Rule 37(3) and Rule 34(4) of the Centralised Service Rules, 1985 read with the provisions contained in the Financial Handbook and Civil Services Regulations, entitling employees of the State Government to pension. In **Praveen Kumar Agarwal (supra)**, it was held by their Lordships of the Division Bench:*

"40. There is one other aspect of the matter. Rule 34 of the Rules, covers all the employees of the Development Authorities with regard to retiral pension and other retiral benefits. Rule 37 categorically provides that matter not covered under Sub-Rule (1) and (2), shall be

governed by all such orders as the State Government may deem proper. Sub-Rule (3) of Rule 37 has been meant to fill up vacuum. Sub-rule (2) specifically provides that matters not covered by these Rules or by special orders, the members of service shall be governed by the Rules, Regulations and Orders applicable generally, to U.P. Government Servant serving in connection with the affairs of the State.

41. The two Government orders dated 4.3.1983 and 17.3.1983 seem to have been issued to clarify the position keeping in view the Sub-Rule (2) of Rule 37. Admittedly, employees of State Government are being paid pension in pursuance of provisions contained in Financial Handbook and Civil Services Regulations. Accordingly, unless the separate provision is made, the petitioners case shall be governed by Sub-rule (2) of Rule 37 of 1985 rules."

28. Until time, that Praveen Kumar Agarwal was decided, there were no separate rules governing the entitlement to retirement pension for members of the centralised service, and, therefore, in the concluding remarks in Paragraph No.41 of the report in Praveen Kumar Agarwal, it was said that the petitioner's case shall be governed by sub-Rule (2) of Rule 37 of the Centralised Service Rules, 1985. At that time, by virtue of sub-Rule (2) of Rule 37 aforesaid, the right to receive pension for members of the centralised service would be the same as those of State Government employees serving in connection with affairs of the State under the rules applicable to them, be it the Financial Handbook or the Civil Service Regulations. Now, that position stands changed with the framing of the Retirement Benefit Rules, 2011, which apply to a retired member of the service by virtue of sub-Rule (4) of Rule 34.

29. However, so far as medical reimbursement is concerned, the position would be the same as it was before their Lordships in Praveen Kumar Agarwal and the provisions of sub-Rule (2) of Rule 37 of the Centralised Service Rules, 1985, would ipso facto attract the provisions of the Medical Attendance Rules, 2011 to retired members of the centralised service and their

families for the purpose of reimbursement of medical expenses.

30. More or less on similar line of reasoning, a learned Single Judge of this Court, when confronted with the issue in Rajendra Prasad Dwivedi v. State of U.P. Thru. Principal Secretary, Department of Housing and Urban Planning, Lko., 2023:AHC-LKO:32771, regarding reimbursement of medical bills of a retired employee of the centralised service, who had claimed against the Banda Development Authority, held:

"15. The second issue with regard to payment of medical bills, it is clear from the records that the benefits which were accorded by the State Government to their employees were adopted by the respondent no.2 on 18.11.2015, thus, there is no reason why the respondents will not pay the medical reimbursement allowance which have been duly verified by the CMO and are pending before the respondent no.1....."

31. This Court is, therefore, of opinion that the petitioner has clearly established his right to medical reimbursement of expenses incurred in his wife's treatment, about which there is no issue that she falls within the definition of his 'family' under the Medical Attendance Rules, 2011 applicable in the case.

32. In the result, the petition succeeds and is allowed. The impugned order dated 04.02.2023 passed by the Secretary, PDA (Annexure No.1 to the writ petition) is hereby quashed. Let a mandamus issue to the Vice-Chairman, PDA and the Secretary, PDA to reimburse the medical bill submitted by the petitioner for his wife's treatment on 23.07.2021, after verification in accordance with law and the Rules applicable, within a month of receipt of a copy of this order. "

4. Learned counsel for the respondents submits that each Development Authority has to give consent for adopting 'The Medical Attendance Rules, 2011' and by referring a part of judgment of Brijesh Bahadur Singh (supra) submits that in the case of Prayagraj Development Authority by way of a resolution

dated 6.4.2013, 'The Medical Attendance Rules, 2011' were adopted, therefore, co-ordinate Bench proceeded to decide the matter and held that medical expenses incurred in the treatment of petitioner's (therein) wife shall be reimbursed in accordance with the prescribed rules, whereas, in the present case, Ghaziabad Development Authority has not adopted 'The Medical Attendance Rules, 2011', therefore, the ratio of Brijesh Bahadur Singh (supra) may not be followed.

5. In rejoinder, learned counsel for the petitioner failed to show any averment or document that 'The Medical Attendance Rules, 2011' were adopted by the respondent Ghaziabad Development Authority.

6. I have considered the above submissions and perused the records.

7. It is not under much dispute that State of U.P. by memo dated 17.4.2012 addressed to Vice Chairman of all the Development Authorities including the respondent Authority to give consent to adopt 'The Medical Attendance Rules, 2011'. However, in the present case, there is nothing on record that 'The Medical Attendance Rules, 2011' were adopted by the Ghaziabad Development Authority. Though, Vice Chairman and the Board of Directors of concerned respondent authority were under legal obligation to take a decision on the communication, therefore, it is directed that in case no decision has been taken on the communication till date, same shall be taken within a period of three weeks from today.

8. Now the Court proceeds to consider as to whether in the absence of above factual aspect that 'The Medical Attendance

Rules, 2011' were not adopted by the respondent Development Authority, ratio of Brijesh Bahadur Singh (supra) would be applicable to the petitioner or not.

9. I have carefully perused the judgement of co-ordinate Bench passed in Brijesh Bahadur Singh (supra) and find that Development Authority involved in the said case has already adopted 'The Medical Attendance Rules, 2011' and therefore, co-ordinate Bench proceeded to hold that wife of the employee i.e. petitioner therein would be entitled for reimbursement of medical expenses incurred in the treatment of her wife co-ordinate Bench held that Centralised Service Rules, 1985 would be ipso-facto attract the provisions of 'The Medical Attendance Rules, 2011' to the retired employees of centralised service and their families for the purpose of reimbursement of medical expenses.

10. Aforesaid writ petition was allowed with a direction to consider the reimbursement of expenses incurred in the treatment of wife of the employee i.e. the petitioner therein.

11. Co-ordinate Bench has also taken note of judgment passed by Lucknow Bench in the case of Rajendra Prasad Dwivedi Vs. State of U.P. Thru. Principal Secretary, Department of Housing and Urban Planning Lko:AHC:LKO:32771 which was in regard to Banda Development Authority that the said Authority has adopted 'The Medical Attendance Rules, 2011' .

12. The Co-ordinate Bench has not considered the issue as to whether in absence of adoption of 'The Medical Attendance Rules, 2011', whether same will be applicable to the employees of the said authority or not.

13. Learned counsel for the petitioner has not able to show any consideration in regard to above referred issue in Brijesh Bahadur Singh (supra), therefore, no benefit can be granted to the petitioner in terms of ratio of Brijesh Bahadur Singh (supra). However, still Court is of opinion that in case 'The Medical Attendance Rules, 2011' are adopted by Ghaziabad Development Authority, petitioner's claim can be considered subject to whether such adoption would be retrospective or prospective.

14. Court leaves the above issue at the discretion of the respondent Authority i.e. Ghaziabad Development Authority.

15. With aforesaid observation, this writ petition is disposed of.

Order Date :- 16.7.2025

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