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HIGH COURT OF CHHATTISGARH, BILASPUR

WRIT PETITION (S) NO. 3244 OF 2015

1. The Bharat Sanchar Nigam Limited, through : the C.M.D., B.S.N.L Corporate Office, Bharat Sanchar Bhawan Janpath, New Delhi Pin Code : 110001
2. The Director H.R.D, B.S.N.L. Corporate Bharat Sanchar Bhawan Janpath, New Delhi, Code : 110001
3. The Chief General Manager Telecom, Bharat Sanchar Nigam Limited, Chhattisgarh Telecom, Circle VIP Road, Khamardih, Raipur (Chhattisgarh) Pin Code 492007
4. The Assistance General Manager (Admn), O/o the Chief General Manager Telecom Bharat Sanchar Nigam Limited, Chhattisgarh Telecom Circle VIP Road, Khamardih, Raipur (Chhattisgarh) Pin Code 492007
5. The Telecom District Manager, Bharat Sanchar Nigam Limited, Through : the Assistant General Manager (A & P), Telephone Exchange Building, Beladula Road, Raigarh (Chhattisgarh)
6. The Manager (CFA)/ The A G M (A & P), O/o the Telecom District Manager, Bharat Sanchar Nigam Limited, Telephone Exchange Building, Beludula Road, Raigarh (Chhattisgarh) Pin Code- 496001
7. The Accounts Officer (Cash), O/o the Telecom District Manager, Bharat Sanchar Nigam Limited, Telephone Exchange Building, Beludula Road, Raigarh (Chhattisgarh) Pin Code- 496001
8. The Department of Telecommunication & I.T., through the Secretary, 81, New Moti Bagh, New Delhi 110023

... Petitioners

Versus

- Dinesh Takhalate S/o Late Shri C.S. Takhalate, aged about 30 years, working as Phone Mechanic in office of the Telecom District Manager, Telephone Exchange Building Road, Raigarh (Chhattisgarh)

... Respondent

For Petitioners	:	Mr. Sandeep Dubey, Advocate.
For Respondent	:	Mr. P.R. Patankar, Advocate, under instructions of Mr. Sunil Pillai, Advocate.

Hon'ble Shri Navin Sinha, Chief Justice

Hon'ble Shri Justice P. Sam Koshy

Order on Board

Per NAVIN SINHA, C.J.

12/10/2015

1. Heard Counsel for the Petitioners and the Respondent.
2. The Petitioners are aggrieved by order dated 11.5.2015 passed by the Central Administrative Tribunal, Jabalpur, Bench Circuit sitting at Bilaspur, allowing Original Application No. 203/00264/2014.
3. Learned Counsel for the Petitioners submits that the father of the Respondent died on 16.11.2000. He was an employee of the Telecom Department whose services stood transferred to the Bharat Sanchar Nigam Limited after its creation on 1.10.2000. The widow of the deceased was receiving family pension and therefore did not qualify as a dependent of the Respondent. Concealing this fact, the Respondent declared her to be dependent on him and obtained reimbursement of medical expenses with regard to her treatment leading to departmental proceedings in which orders for recovery have been passed. AIR 1998 SC 659 (State of Madhya Pradesh & Others v. M.P. Ojha & Another) relied upon by the Tribunal has no application to the facts of the case.
4. Learned Counsel for the Respondent submitted that he had never made any misrepresentation to the Corporation. In his family detail form dated 1.3.2007, he had fully disclosed that his mother was dependent on him. He had applied for medical treatment of his mother which was granted on 26.3.2009 and 11.8.2009 after which only he had his mother treated and for which payment was released and ultimately his mother died on 18.1.2010. It is not the case of the Petitioners that the Respondent has availed medical reimbursement in double from any other sources.

5. We have considered the submissions on behalf of the parties.

6. The only question for our consideration is if the widowed mother of the Respondent qualified as a dependent so declared by him in his family detail form submitted on 1.3.2007. If his mother was a “dependent” on him, the fact that she may have been getting family pension was wholly irrelevant as held in M.P. Ojha case. There has been no misrepresentation or fraud practiced by the Respondent. The Petitioners in full awareness allowed the Respondent's application for medical treatment of his mother and also permitted reimbursement for Rs. 1,34,858/- by orders dated 26.3.2009 and 11.8.2009. The mother of the Respondent expired as soon as 18.1.2010. Apparently, she was suffering from serious ailment, the details of which has not been placed on record by the Petitioners.

7. The BSNL Employees Medical Reimbursement Scheme, dated 24.2.2003, in clause 1.4.1 defines Dependant as including any member of the family as defined under the Civil Service (Medical Attendance) Rules. Rule 2(c) of the latter defines family as :-

“2(c) “family” means—

(i) Husband or wife as the case may be, of the member of the Service; and

(ii) The parents, sisters, widowed sisters, widowed daughters, minor brothers, children and step-children wholly dependent upon the member of the Service and are normally residing with such member including dependent brothers, dependent divorces/separated daughters and step-mother.”

8. No further discussion is required that the ratio laid down in M.P. Ojha as discussed by the Tribunal applies with full force to the Respondent. It is unfortunate that without any material to distinguish the case of the Respondent from the ratio laid down in M.P. Ojha case, the

Petitioners, in what appears to be a purely bureaucratic manner, have pursued the matter instead of giving a quietus to the matter on basis of order of the Tribunal.

9. We find no merit in the writ petition. It is dismissed.

Sd/-
(Navin Sinha)
Chief Justice

Sd/-
(P. Sam Koshy)
Judge

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