IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.18490 of 2009

DATE OF DECISION: SEPTEMBER 10, 2015

D.B.ARORA (THROUGH L.R.S) ...PETITIONER

VERSUS

UNION OF INDIA & OTHERS ...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE M. JEYAPAUL.
HON'BLE MR. JUSTICE DARSHAN SINGH.

1. Whether the judgement should be reported in the digest? Yes

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PRESENT: MR. GAURAV MOHUNTA, ADVOCATE FOR THE PETITIONER.
MR. SOURABH GOEL, CENTRAL GOVERNMENT COUNSEL FOR THE RESPONDENT-UNION OF INDIA.

M. JEYAPAUL, J.

1. D.B.Arora, retired as Senior Audit Officer. His wife underwent cataract operation with replacement of Intra-Ocular Lens (IOL) in the Department of Ophthalmology in PGIMER, Chandigarh in the year 2005. He received medical reimbursement of ₹13,297/- towards the cataract operation conducted on his wife.

2. It is the grievance of D.B.Arora that the respondents vide letter dated 15.2.2008 directed him to repay the excess amount of ₹7920/- paid towards the above medical reimbursement without giving him an opportunity of hearing.

3. The Tribunal referring to Annexure P-3 dated 21.12.2004 and the communication sent by the respondents on 15.7.2008 held that the respondents have rightly directed D.B.Arora to pay the excess amount of

₹7920/- paid to him towards medical reimbursement.

4. Heard the submissions made on either side.

5. D.B.Arora who filed Original Application before the Tribunal has since passed away. His legal representatives have filed the present writ petition challenging the order passed by the Tribunal.

6. Learned counsel appearing for the writ petitioners drew our attention to the Circular issued by the respondents on 4.5.1992, which reads thus "The actual cost of Intra-Ocular Lens implantation and the treatment thereto, if undertaken in Government Hospital, in full and the actual cost of ₹6500/-, whichever is less, is reimbursable to the Government servant".

7. As per the above Circular, D.B.Arora was entitled only to the maximum amount of ₹6500/- towards the cost of Intra Ocular Lens implantation and the treatment thereto in the Government Hospital.

8. There is no dispute to the fact that D.B.Arora received a sum of ₹13,297/- towards the cost of Intra-Ocular Lens implantation and the treatment his wife had taken in the Government Hospital. The respondents have clarified with the concurrence of the Finance Department vide communication dated 21.12.2004, even prior to the surgery underwent by the wife of D.B.Arora, that in the matter of reimbursement the ceiling rate for foldable IOL would be ₹900 or the actual cost, whichever is less.

9. In our considered view, the respondents are entitled to clarify the original Circular issued on 4.5.1992 with the concurrence of the Finance Department.

10. Now, it is crystal clear that D.B.Arora was entitled to only

₹6500/- towards reimbursement for his wife's cataract operation including Intra-Ocular Lens implantation (IOL). But he had received a sum of ₹13,297/- towards the said operation underwent by his wife.

11. Out of the claim of ₹13,297/- he made towards reimbursement, he was entitled to receive ₹900/- towards IOL Implantation and ₹5600/- towards the expenditure he had borne towards treatment, aggregating to ₹6500/-. A sum of ₹6797/- has been paid in excess to D.B.Arora towards reimbursement and not ₹7920/- as claimed by the respondents.

12. Learned counsel appearing for the respondents submits that D.B.Arora who got reimbursement of ₹13,297/- had died. Now, we find that legal representatives have challenged the order passed by the Tribunal.

13. In view of the above facts and circumstances, taking a lenient view, we direct the respondents not to recover the excess payment made to D.B.Arora under Annexure P-2 as he had passed away and the recovery process would result in untold hardship to the legal representatives who filed the present writ petition.

14. In the aforesaid terms, the writ petition stands disposed of.

(M. JEYAPAUL)
JUDGE

September 10, 2015
Gulati

(DARSHAN SINGH)
JUDGE