

FARAD CONTINUATION SHEET No.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO. 3927 OF 2015

Dujendrakumar Harishankar Sharma VERSUS State of Maharashtra & Ano.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri Amol Mardikar counsel for the petitioner.
Shri A. S. Fulzele Additional GP for the respondent no. 1

CORAM : SMT. VASANTI A. NAIK AND
A. S. CHANDURKAR, JJ.

DATE : JANUARY 07, 2016.

By this writ petition, the petitioner, a Judicial Officer, who is compulsory retired from service, seeks a direction to the respondent no.2 to reimburse the medical bill relating to the father of the petitioner. The petitioner also challenges Rule 2(3)(Seven) of the Maharashtra Civil Services (Medical Attendance) Rules, 1961 (hereinafter referred to as the Rules of 1961 for the sake of brevity) and the Government Resolution dated 11.11.2011 as being unconstitutional.

According to the petitioner, his father required medical treatment for his heart ailment for the period from 06.12.2011 till 10.12.2011 and an amount of more than Rs. 2,00,000/- was spent on the medical treatment. It is the case of the petitioner that though the petitioner was required to submit the medical bills for seeking reimbursement of the expenses within a period of one year, the petitioner could submit the claim only on 24.04.2013 due to the vacancies in

the posts of Clerks in the establishment of Chief Judicial Magistrate, Wardha. Since the respondent no.2 refused to sanction the bills of the petitioner, the petitioner has filed the instant petition challenging the provisions of Rule 2(3) (Seven) of the Rules of 1961 and the Government Resolution dated 11.11.2011.

Shri A. S. Fulzele, the learned Additional Government Pleader appearing for the respondent no. 1 supported the action of the respondent and submitted that though the treatment period was from 06.12.2011 to 10.12.2011 and the bills were required to be tendered within a period of one year as per Government Resolution dated 07.06.1991 the petitioner admittedly submitted the bill on 24.04.2013. It is submitted that the claim of the petitioner was made beyond the period of limitation and hence the same was rejected. It is stated that the father of the petitioner was in Government Service and was receiving a pension of Rs. 15,025/- per month during the period of his illness. It is submitted that the Government Resolution as well as the Rules of 1961 do not provide for reimbursement of the medical bills in case of dependents who receive pension of more than Rs. 3500/- per month. It is submitted that even this writ petition suffers from laches, in as much as, the father of the petitioner was treated till 10.12.2011 and the writ petition is filed beyond the period of three years on 02.05.2015.

On hearing the learned counsel for the parties, it appears that the respondents were justified in refusing the reimbursement of the medical claim of the petitioner. Admittedly, the father of the petitioner was treated during the

period from 06.12.2011 till 10.12.2011. The petitioner had submitted the medical bill for reimbursement on 24.04.2013, i. e. beyond the period of one year. As per the Government Resolution dated 07.06.1991 the claim for reimbursement is required to be made within a period of one year from the medical treatment. The case of the petitioner that there were certain vacancies in the post of Clerks in the establishment of the Chief Judicial Magistrate, Wardha at the relevant time and therefore the bills were submitted belatedly cannot be an explanation for the belated claim. It is not possible to believe that the claim could not have been submitted due to the vacancies in the posts of clerks. At least some Clerks or Superintendents could have been available in the office of the Chief Judicial Magistrate Wardha during the relevant time i. e. the period of one year from the treatment. The explanation offered by the petitioner for the delay in making the claim is not sufficient and we find that the respondents have rightly denied the claim of the petitioner on the basis of the Government Resolution dated 07.06.1991. The petitioner has not challenged the Government Resolution dated 07.06.1991, that prescribes the period of one year for making the claim for reimbursement. Also, we find some force in the submission of the respondents that the father of the petitioner was not wholly dependent on him as he was receiving an amount of Rs. 15,000/- per month towards pension and the writ petition is belatedly filed beyond the period of three years in respect of the monetary claim. Since the claim of the petitioner was time barred in view of the Government Resolution dated 07.06.1991, it would not be necessary to consider the validity of the provisions of Rule

2(3)(Seven) of the Rules of 1961 and the Government Resolution dated 11.11.2011.

In the circumstances of the case we dismiss the Writ Petition with no order as to costs.

JUDGE

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