IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 22095 of 2012 (O/M)
Date of decision : 3.11.2016

Welfare Society of retirees of National Insitute of Technical Teacher Training and Research and another ....... Petitioner (s)

Versus

Union of India and others ....... Respondent (s)

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. P.K. Mutneja, Advocate, for the petitioners.

None for respondent No. 1.

Mr. Brijeshwar Singh Kanwar, Advocate, Standing Counsel, for respondents No. 2 and 3.

Mr. I.S. Sidhu, Advocate, for respondent No. 4.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ? Yes.
2. To be referred to the Reporter or not. Yes.
3. Whether the judgment should be reported in the digest ? Yes.

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KULDIP SINGH, J.

The petitioner, a Welfare Society of Retirees of National Institute of Technical Teacher Training and Research (in short 'NITTTR'), through its President alongwith the President of the said Society, has invoked the writ jurisdiction of this Court under Article 226 of the Constitution of India for quashing the order dated 14.6.2010 (Annexure-P-4) and also for issuance of writ in the nature of mandamus directing the respondents to extend the benefit of Central Government Health Scheme (in short 'CGHS') or appropriate medical re-imbursement by respondent No. 4 to the petitioners under Central Government Medical Attendance Rules. The petitioner No. 1-Society has been set up by the members, as detailed in Annexure-P-1, who are retired employees of NITTTR. Most of them are getting Central Civil Services Pension (in short 'CCS Pension') and a few are getting family pension and a few have opted for the Central Provident Fund (in short 'CPF'). It is stated that respondent No. 4-NITTTR was set up as a Society by the Union of India, and the objects for which it is established is given in its Memorandum of Association (Annexure-P-2). The rules and regulations of the same were also framed. As per Rule 4, the general superintendence, direction and control of the affairs of the Society and its income and property shall be vested in the Governing Body of the Society, which is called as Board of Governors. The Government of India has authority to appoint various persons including the Chairman, two members representing the Ministry of Human Resources Development, two industrialists, technical persons nominated by the Government of India, one representative of the AICTE. In this way, out of eight different categories, which can be appointed by the Board of Governors, four categories are appointed by the Government of India, five members are appointed by the Regional States and two out of region are appointed by the State Government, one representative of the University, to which the institute is affiliated, one member of the faculty and one director of the institute. The bye-laws can be considered, modified or cancelled with the approval of the Government of India. The accounts of the NITTTR are audited by the Comptroller and Auditor General of India (in short 'CAG') or any person appointed by him in this connection. For the serving employees, the Central

Government Medical Attendance Rules, as applicable to the Central Government employees, are applicable. However, the retirees of respondent No. 4-Institute are not being extended the medical health scheme and are paid fixed amount of Rs. 300/- per month as medical allowance. The Finance Committee of respondent No. 4 Institute recommended that the employees/pensioners of respondent No. 4 be provided the facilities at par with the Central Government pensioners under the CGHS subject to payment of contribution at par. However, the same was rejected. It is stated that the Central Government Health Scheme was introduced in the year 1954 for providing medical facilities to Central Government employees and their family members. The scheme, which was initially introduced in Delhi has now been extended to 28 other cities including Chandigarh. The employees/ pensioners availing the said CGH Scheme are required to make a nominal contribution every month depending upon their pay/pension. The referral system is also brought into operation. The residence alone is the criteria for eligibility for availing medical facilities under the Central Government Health Scheme. In the eligibility criteria, certain categories are mentioned, which are entitled to the benefit of said CGH Scheme, which includes an accredited journalist, who produces a certificate from the Press Council of India stating that he is a member of the Press Association, New Delhi. Therefore, the prayer is that the petitioners, who retired from NITTTR, should also be given the same benefit of Central Government Health Scheme on payment of contribution out of their pension.

The respondents No. 1 to 3 contested the case. It was stated in the reply that the petitioner is a Society. There are two medical facilities, namely, Central Government Health Scheme and Central Services (Medical

Attendance) Rules, 1944.

I have heard the learned counsels for the parties and have also carefully gone through the file.

Undoubtedly, as per the list of the members of the Society (Annexure-P-1), some of members of the petitioner-Society are living at Chandigarh, Mohali and Panchkula, whereas some are living in other area i.e. beyond the tricity of Chandigarh, Mohali and Panchkula. Therefore, it cannot be said that all the members of the petitioner-Society are living at Chandigarh. Admittedly, the petitioner is a registered Society, in which the Union of India has a major say. However, the rules reproduced in the present writ petition show that the Board of Governors run the affairs of the NITTTR and the procedure of appointment is also given in the rules of the Society. Under Rule 20 of the Memorandum of Association (Annexure-P-2), the appointments, except that of the Director, are made by the Board of Governors. Admittedly, those employees, who are not covered under the CGH Scheme, are granted fixed medical allowance. It comes out from the reply of respondent No. 1 that a request was made for covering the pensioners of NITTTR under the CGH Scheme, but the same was declined by the Ministry of Health and Family Welfare. In the Minutes of Meeting of Committee of Secretaries (Annexure-R-III), it was decided that the Central Government Health Scheme facilities would not be extended to PSUs and Autonomous Bodies. The NITTTR is one of the Autonomous Body. The eligibility, to be covered under the said CGH Scheme, is provided in the said scheme itself wherein a list of employees/services are given, which admittedly does not cover the pensioners of NITTTR. Admittedly, during service, the members of the petitioner-Society were getting the medical facilities at par with the Central Government employees. The relevant clauses are (xxxiii) and (xxxiv), which are reproduced as under :-

> "(xxxiii) Persons employed in semi-government and autonomous bodies who are permitted to join the CGH Scheme.
>
> (xxxiv) An Accredited Journalist who produces a certificate from the Press Council of India stating that he is a member of the Press Association, New Delhi (for OPD and at RML Hospital)."

It goes to show to show that the persons, who is employed in Semi-Government and Autonomous Bodies, can avail the CGH Scheme when they are permitted to join the CGH Scheme.

The learned counsel for the petitioners has raised serious objections to the inclusion of the accredited journalists for availing the said facility.

I am of the view that if the accredited journalists are included as one of the beneficiaries of the said scheme, that does not mean that any member, who comes to the Court, should be granted the benefit of said scheme and becomes the member of the said scheme. I am of the view that the case of the petitioner-Society is not covered under the rules. If they want that they should be covered under the said scheme, the NITTTR has to move to the Government and the Government after accepting such request has to make necessary amendments in the rules. The Court cannot take over the executive or quasi judicial functions of the Government to say that the rules stand amended, so as to include the NITTTR also .

The learned counsel for the petitioners has relied upon a Division Bench judgment of the Himachal Pradesh High Court, Shimla, in

*Union of India and another Versus Shankar Lal Sharma*, (CWP No. 4621 of 2011, decided on 28.12.2015). This case relates to All India Radio. The present case is different. Here, the petitioner is a registered Society, which has its own Memorandum of Association. The appointments are also made by the Board of Directors and the rules of the memorandum of association do not permit the pensioners of NITTTR to be beneficiary of the Central Government Health Scheme. On the ground of parity with the journalists and All India Radio employees, the petitioners cannot be ordered to be beneficiary of the said scheme.

As discussed above, as per the list (Annexure-P-1), all the members of the petitioner-Society are not residing in Chandigarh. The scheme is only applicable to the limited 28 cities. Therefore, there are no merits in the present writ petition. Accordingly, the same is dismissed.

(KULDIP SINGH)
JUDGE

3.11.2016
sjks

Whether speaking / reasoned : Yes

Whether Reportable : Yes