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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 3684/2015

ANJANA NAGAR

..... Petitioner

Through

Mr. D. Ashok Rajagopalan, Advocate

versus

UNION OF INDIA AND ANR.

..... Respondents

Through

Ms. Archana Gaur, Advocate for
UOI/R-1

Mr. Sanjoy Ghose, Advocate for R-2

Ms. Suparna Srivastava, Advocate for
R-4

CORAM:

HON'BLE MS. JUSTICE INDIRA BANERJEE

HON'BLE MR. JUSTICE V. KAMESWAR RAO

ORDER

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25.11.2016

1. In this writ petition, the writ petitioner, an employee of Delhi High Court has sought orders on the respondent to include her sister in law who is dependant upon her, for the CGHS (Central Government Health Scheme) available to the petitioner and dependant members of her family.
2. The petitioner is entitled to CGHS benefits for herself and for the dependant members of her family.
3. For the purpose of CGHS facilities, family means and includes:
 - (1) Husband/wife, including more than one wife and judicially separated wife
 - (2) Parents (excluding step parents) subject to the following:
 - (a) In case of adoption, adoptive parents and not real parents,
 - (b) If adoptive father has more than one wife, only the first wife; and

(c) in case of female employees, parents/parents in laws at her option, subject to the condition of dependency and residence etc. being satisfied.

Note.....

(3) Children, including step children, legally adopted, children taken as wards by government servant under the Guardians Wards Act, 1980, provided that such a ward lives with him and he is treated as a family member and is given status of a natural-born child through a special Will executed by government servant.

Notes

- (i) Son remains eligible for CGHS benefits till he starts earning or attains the age of 25 years or gets married, whichever is earlier.
- (ii) Daughter is eligible till she starts earning or gets married, whichever is earlier (irrespective of age).

(4) Sons suffering from permanent disability, either physically or mentally, without any age-limit.

Notes

- (i) Disability means blindness, low vision, leprosy-cured, hearing impairment, locomotor disability, mental retardation, mental illness etc.

(5) Dependant divorced/abandoned or separated from their husband/widowed daughters, (irrespective of age).

(6) Dependant unmarried/divorced/abandoned or separated from their husband/widowed sisters, (irrespective of age),

(7) minor brothers upto the age of becoming a major,

(8) Brother suffering from permanent disability, either physically or mentally,

(9) Step mother,

(10) minor children of widowed/separated daughters who are dependent upon the CGHS beneficiary and normally residing with him, shall be eligible upto the age of majority.

4. For availing medical facilities under the Scheme, parents, sisters,

widow widowed sisters, widowed/ separated / divorced daughters, brothers, step mother and children shall be deemed to be dependent upon the government employee if they are normally residing with him and their income from all sources including pension, family pension etc. does not exceed Rs.3500/- along with dearness relief thereon drawn, as on the date of consideration.

5. The condition of dependency is not applicable to the spouse. A spouse is automatically included for medical benefits under the CGH Scheme. Further, where both husband and wife are Central Government employees, either of them may prefer claim for CGHS benefits for eligible members of the family. The benefits would be available as per the entitlement of the claimant.

6. An order No. F4(1)-18/63-H dated 3rd March, 1987 was issued for extension of CGHS benefits to the parents in law of married ladies, entitled to the benefit of the CGH Scheme. In terms of the aforesaid notification, a married lady may choose to include her parents or her parents in law for the purpose of claiming the benefits under the CGH Scheme. When choice is exercised for inclusion of parents in law, parents may not avail of the benefits under the Scheme as applicable to the employee.

7. The Central Government Health Scheme is a beneficial, social welfare scheme to promote health care by extending medical facilities to dependant family members of government servants, entitled to CGHS benefits.

8. In case of married ladies they may opt either for parents or parents in law. Once they opt for parents in law, the parental family automatically loses the benefits of the Scheme as applicable to the employee. While Government servants can avail CGHS benefits for dependant sisters and minor dependant brothers, sisters in law and brothers in law of married women are not

extended the CGHS benefits, if a woman opts for CGHS benefits for her parents in law.

9. There could be no reason to exclude a dependant sister in law from the CGH benefits, if a dependant sister can get benefit of the Scheme and more so, since by opting for the Scheme for parents in law, the employee concerned forgoes the right to claim CGHS benefits for her own family of the employee, which would include her own sister. The sister of a married lady in Government service, who would have been entitled to benefits of CGHS, if the employee had not opted for parents in law, would also lose the benefit of the scheme, upon exercise of choice in favour of the parents in law.

10. It is however, not for this Court to amend the rules relating to Central Government Health Schemes. The petitioner may make a representation to the Secretary, Department of Health. If such a representation is made by the petitioner or any other employee entitled to benefits of the Scheme or by non-government organization or social service organization, the same may be considered in accordance with law and in the light of the observations made herein above, having regard to the objects of the Scheme, within a period four weeks from the date of receipt of such representation.

11. Needless to mention that the sister in law would have to fulfil the same criteria as a dependent sister for availing of CGH Scheme. In other words, the sister in law should be residing with the employee and should be dependent on the employee.

12. This petition stands disposed of.

INDIRA BANERJEE, J

V. KAMESWAR RAO, J

NOVEMBER 25, 2016/sm

