

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.8.2017

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

W.P.No.23525 of 2017 and
W.M.P.No.24679 of 2017

- 1 Union of India
rep. by the General Manager
Rail Nilayam South Central Railway
Secunderabad - 515 801.
- 2 The Divisional Railway Manager
South Central Railway
Guntakal Division Guntakal - 515 801.
- 3 The Chief Medical Superintendent
Railway Hospital
Guntakal - 515 801.
- 4 The Chief Medical Director
Rail Nilayam Secunderabad - 500 071.
- 5 The Assistant Divisional Engineer
South Western Railway
Dharmapuri - 636 701.

Petitioners

- Vs
- 1 V.Jayaraman
 - 2 The Registrar
Central Administrative Tribunal
Madras Bench Chennai - 600 104.

Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India seeking issuance of a writ of certiorari to call for records in O.A.No.546 of 2015 and M.A.No.22 of 2016 and quash the impugned order dated 16.12.2016 passed by the Central Administrative Tribunal Chennai.

For petitioners : Mr.P.T.Ramkumar

ORDER

(Order of the court was made by HULUVADI G.RAMESH, J.)

Heard the learned counsel appearing for the appellants for some time and perused the order passed by the Tribunal.

2. The writ petition is filed challenging the order passed by the Central Administrative Tribunal which granted the relief of reimbursement of medical claim made by the petitioner.

3. It appears that the petitioner was an employee of Southern Central Railway, Secunderabad during the period from 10.7.1972 to 10.3.2005, on which date, he took voluntary retirement and by that time, he opted for Fixed Medical Allowance (FMA), however, later, he joined in Retired Employees Liberalised Health Scheme (RELHS) to get the benefit of reimbursement of medical expenses for the treatment taken in private hospitals rather than taking treatment in the the Railway Hospitals as he found it very difficult to approach the Railway Hospitals which are situate at a far away place from the place where he settled. The dispute is the claim of Rs.1,60,000/- made by the petitioner for having taken treatment at Ramachandra Hospital, Chennai for his ailment of Cancer afflicting his kidney.

4. The hypertechnical stand of the Railway is that he had originally opted only for FMA and later he joined the RELHS on 16.9.2014, however, he is eligible to make any claim only after a period of six months from the date of joining the scheme and hence, the present claim is not maintainable since he has not completed the lock in period of six months from the date of entering into such scheme.

5. The operating portion of the order passed by the Tribunal in para 8 reads thus:-

"Considering the overall factual circumstances of the present case wherein the applicant afflicted by a life threatening disease had taken treatment in a private hospital, it is not correct on the part of the respondents to deny the reimbursement claim of the applicant even though too technical interpretation of the rules may justify their action and further in the present case the applicant has also become a member of the RELHS-97 Scheme by making the required contribution as determined by the respondents. In such view of the matter, we deem it appropriate to direct the respondents to reimburse the amount of Rs.1,60,000/- to the applicant for the treatment taken by him considering the serious nature of the ailment and the emergency situation that has resulted in driving the applicant for taking treatment in a private hospital. It is, however, clarified that no interest would be payable to the applicant. The respondents shall

comply with the above direction within a period of eight weeks from the date of receipt of a copy of this order. The OA is allowed as above."

6. We do not find any reason to interfere with the order passed by the Tribunal as it has considered the situation faced by the petitioner, especially, the nature of ailment of the petitioner and the exigency for taking specialised treatment for such ailment. It is not in dispute that the retired employees of Railway are entitled to get treatment in Railway Hospitals and there may even be specialised fields in such hospitals. But, that cannot be considered to be a ground to reject the claim made by the employee for having taken treatment in a private hospital in such a pathetic condition and further, the claim is denied by the Railway not as a bogus one, but, only on mere technicalities like incompleteness of lock in period.

7. It further appears that the petitioner was suffering from cancer at an advanced stage. While so, he cannot be expected to take much pains to get treatment only in the Railway Hospitals. The amount claimed by way of reimbursement is also only Rs.1,60,000/-. Rejecting the genuine claim merely based on technicalities is nothing but, defeating the very scope of the Scheme itself. Therefore, we are of the view that the order passed by the Tribunal granting the relief of reimbursement needs no interference. Accordingly, the writ petition is dismissed. No costs. The connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar (CS V)

//True Copy//

Sub Assistant Registrar

ssk.

To:

- 1 The General Manager,
Rail Nilayam South Central Railway
Union of India
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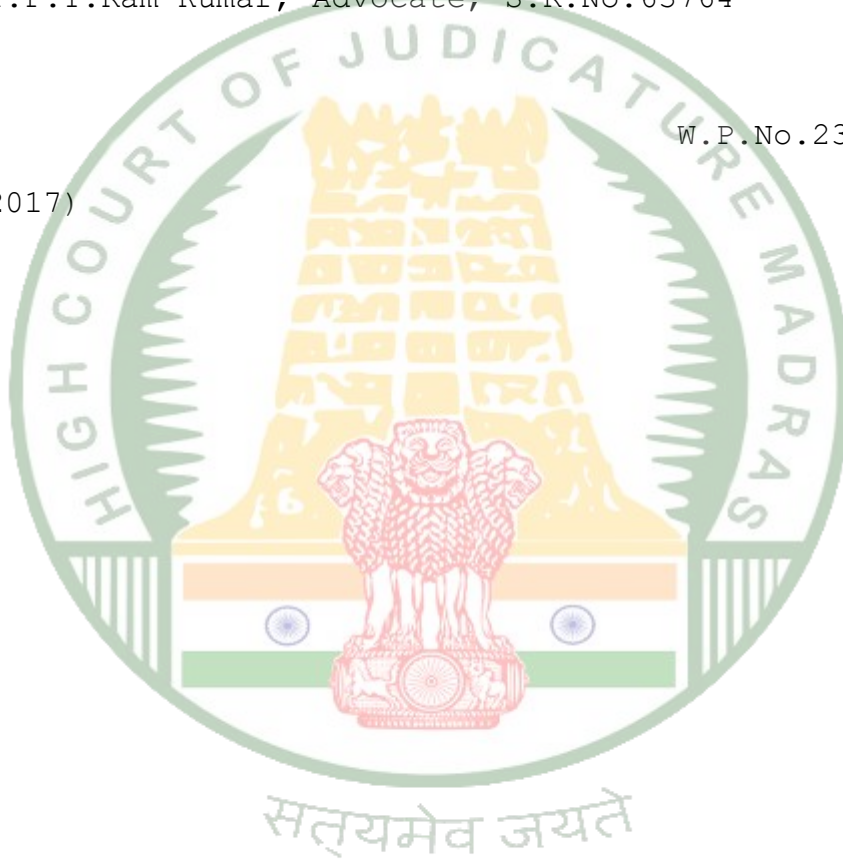
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+1cc to Mr.P.T.Ram Kumar, Advocate, S.R.No.63764

W.P.No.23525 of 2017

GN(11/10/2017)



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