

HON'BLE SRI JUSTICE SURESH KUMAR KAIT
&
HON'BLE SRI JUSTICE U. DURGA PRASAD RAO

W.P. No. 13485 of 2004

ORDER:- (ORAL)

(Per Hon'ble Sri Justice Suresh Kumar Kait)

This writ petition is filed challenging the order dated 30.12.2003 in O.A.No. 113 of 2003 passed by the Tribunal.

The Tribunal, while allowing the O.A., made the following observations:

“Therefore, in the light of the findings made above, the respondents are accordingly directed to take up this matter at the highest level in the Government and issue necessary amendment/clarification to the office memorandum No.S.11011/3/2003-CGHS(P), dated 14.10.2003, issued by the Ministry of Health & Family Welfare (Department of Health), Government of India, Nirman Bhavan, New Delhi, insofar it relates to only pensioners of the Central Government covered by Central Government Health Scheme to the Ministries/ Departments from where they have retired/ superannuated. This O.M. shall come into effect from 01.04.2004 and deal with decentralization of settlement of new medical claims for CGHS cardholders by creation of a new object head namely, “Medical Head”. Prior to this O.M. coming into effect from the next financial year, it is incumbent on the part of the respondent-authorities to issue necessary clarification/ amendment to the said O.M. that the pensioners of the Central Government under CGHS scheme would also cover retired employees of Kendirya Vidyalaya Sangathan Teachers. The time limit for implementation of the above direction is, therefore, up to 31.03.2004, by which time, the respondent-authorities are bound to issue necessary clarification/ amendment to the O.M. dated 14.10.2003 to redress the grievance of retired KVS employees.”

The learned Assistant Solicitor General appearing on behalf of the petitioners, submits that in compliance with the order of the Tribunal, the Director, Ministry of Health and Family Welfare, CGHS (Policy), Government of India, New Delhi, issued Office Memorandum dated 10.06.2014 wherein stated as under:

“The CGHS facilities will be extended to the retired employees of such Statutory/ Autonomous bodies subject to the following conditions:

- a) CGHS facilities will be extended to the retired employees of the Statutory/ Autonomous bodies on cost-to-cost basis. They will be entitled to OPD facilities and medicines from CGHS Wellness Centres in Delhi/ NCR only.
- b) Medical Expenses incurred on IPD/ hospitalization treatment of the pensioner beneficiary and their eligible family members shall be borne by the statutory/ autonomous bodies concerned as per CGHS approved rates and guidelines.
- c) CGHS card(s) will be issued only on receipt of the recommendation of Statutory/ Autonomous bodies concerned along with advance payment of requisite service charges at prescribed rate (on cost-to-cost basis) on annual basis. The CGHS cards will be renewed on annual basis on receipt of annual service charge in advance from the Statutory/ Autonomous bodies concerned.”

We note, in the said communication, it is specifically mentioned that copy of the order be circulated to all Statutory/ Autonomous bodies to which CGHS facilities are extended for their serving employees for information and necessary action. It seems that the facility extended vide Office Memorandum dated 10.06.2014, is limited to

employees of all Statutory/ Autonomous bodies on cost-to-cost basis and they will be entitled to OPD facilities and medicines from CGHS Wellness Centres in Delhi/ NCR only.

Vide Communication dated 05.12.2016, the Directorate General of Central Government Health Scheme (CGHS-III), while referring to the Communication dated 08.11.2016 in the context of Kendriya Vidyalaya Sanghatan Retired Employees Association, informed the Additional Deputy Director General (HQ) that serving employees of Kendriya Vidyalaya Sanghatan (KVS) stationed at Kolkata, Mumbai, Chennai, Hyderabad, Bangalore & Delhi/ NCR only have been extended CGHS facilities. These employees are entitled to avail only OPD facilities on cost-to-cost basis as per OM dated 10.06.2014. In addition, it is also informed that a proposal for extending CGHS facilities to all the employees of Statutory bodies/ Autonomous bodies in all CGHS covered cities was moved by this Department for consideration of Committee of Secretaries (COS) in its meeting held on 04.06.2015 and it was decided that the proposal for extension of CGHS facility to any new Organization may not be considered at this stage.

It is pertinent to mention here that vide order dated 03.11.2016 in W.P.No. 13485 of 2004, this Court directed the Assistant Solicitor General to get instructions on the Office Memorandum bearing No.S.11016/ 8/ 2015-CGHS(P), dated

29.05.2015 issued by the Director, Ministry of Health and Family Welfare, Government of India, according extension of CGHS facilities to the retired employees of Kendriya Vidyalaya Sanghatan at New Delhi. This Court also directed the learned counsel for the respondents to get instructions on the Office Memorandum bearing F.No.11086/ 01/ 2012-KVS HQ (Admn.II)793-805, dated 21.08.2015 extending the benefit of CGHS facilities to the retired employees of Kendriya Vidyalaya Sanghatan at New Delhi.

The learned Assistant Solicitor General, in his letter dated 03.11.2016 addressed to petitioner Nos.1 to 3 mentioned that this Court would like to know that when CGHS facilities are extended to some of the retired employees of DVS only in Delhi/ NCR as per the terms and conditions of the OM dated 10.06.2015, would it not be arbitrary, illegal and discriminatory in not extending the same facilities to similarly situated retired employees who are residing elsewhere than in New Delhi

In the Office Memorandum dated 21.08.2015 issued by the Joint Commissioner (Pers.), it is stated that CGHS facilities shall be extended to the retired employees of KVS only in Delhi/ NCR. However, there is no provision for issue of life-time CGHS cards to the pensioner beneficiaries of KVS. Thus, it establishes that the medical facilities are extended

only to the serving and retired employees of KVS in Delhi/NCR, however not extended to similarly situated employees who are residing elsewhere than in Delhi/ NCR.

The learned Assistant Solicitor General appearing on behalf of the petitioners, submits that in view of the above, they have complied with the orders of the Tribunal, as such, nothing survives in the present writ petition.

However, the learned counsel for the respondents disputes the same.

In view of the submission of the learned Assistant Solicitor General, this writ petition is closed. However, liberty is granted to the respondents to approach appropriate forum in accordance with law if the petitioners fail to comply with the directions given by the Tribunal in its letter and spirit. No order as to costs.

As a sequel, Miscellaneous Petitions, if any pending, shall stand disposed of as infructuous.

05.07.2017

bcj

SURESH KUMAR KAIT, J

U. DURGA PRASAD RAO, J