

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH
Sr. No.: 236

Civil Writ Petition No.18847 of 2015 (O & M)
Date of Decision: August 10, 2017

Sarvinder Mohan

..... PETITIONER

VERSUS

State of Haryana & another

..... RESPONDENTS

. . .

CORAM: **HON'BLE MR. JUSTICE JASPAL SINGH**

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PRESENT: - Ms. Anju Arora, Advocate, for the petitioner.

Mr. Siddharth Sanwaria, Deputy Advocate General,
Haryana.

Mr. Ashish Yadav, Advocate, for respondent No.2.

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Jaspal Singh, J

1. The instant writ petition has been preferred under Article 226/227 of the Constitution of India for issuance of a writ in the nature of Mandamus, directing respondent No.2 to reimburse medical bill (Annexure P-1) alongwith interest. Further, a writ in the nature of certiorari has been sought for quashing order dated April 23, 2015 (Annexure P-5) vide which claim of petitioner has been rejected as well as to grant fixed medical allowance to petitioner after retirement at par with Haryana Government retired employees.

2. The petitioner stood retired on November 30, 2010 from

Manager (Admn.) and is drawing pension from Employees Provident Fund Organization. His wife was diagnosed symptomatic Gall Stone Disease Mucocele and undergone surgery on March 06, 2014. She was discharged on March 07, 2014 from PGI, Chandigarh. Petitioner submitted the medical bill (Annexure P-1) for reimbursement to respondent No.2 which was denied. Petitioner served a legal notice dated September 08, 2014 followed by Reminder dated March 12, 2015. In reply to legal notice, vide letter dated April 23, 2015 (Annexure P-5), respondent No.2 rejected the claim of petitioner. Aggrieved by the aforesaid order/letter, petitioner has been constrained to file instant petition.

3. Vide order dated April 23, 2015, Haryana Dairy Development Cooperative Federation Limited has rejected the claim of petition stating that there is no provision in the organization for reimbursement of medical claim to a retired employee.

4. Learned counsel for the respondent – Cooperative Federation has submitted that Federation is a cooperative society, registered under the Haryana Cooperative Societies Act, 1984. For regulating the relationship of employer and employee, it has its own service rules and certified standing orders of its milk plants. Board of Directors comprising of Directors including the Managing Director is the governing body of federation, who is appointed by the State Government. Prior to coming into force of the Haryana Dairy Cooperative Staff Service Rules, 1988, it had been decided in the Board of Directors' meeting of Federation that only the allowances such as dearness allowance, house rent allowance, medical reimbursement etc. shall be allowed as per the allowances of State Government. However, there is no provision for payments of these

allowances/facilities to the retired persons in the Haryana Dairy Staff Service Rules, 1988.

5. This Court has given an anxious thought to the aforesaid submissions made by learned counsel for the respondent(s) and gone through the documents available on file but find no legal or factual weight therein.

6. Undisputably, medical allowance and reimbursement of medical bills was permitted under Rule 1.3 of Haryana Dairy Staff Cooperative Staff Service Rules, 1988. As per Rule 24.1 of Haryana Dairy Cooperative Service Rules, 1988, medical allowance and reimbursement of medical bills was admissible as per instructions issued from time to time by the Federation. As per Rule 66.1 of the aforesaid Rules, it was provided that where these rules are silent, provisions of Civil Services Rules and Instructions of Government applicable to other Government employees shall apply to other employees covered by these rules. Therefore, claim of Federation that it is not liable to pay medical reimbursement after coming into force of Service Rules, is not sustainable in the eyes of law. The stand taken by the respondent – Federation is absolutely against the settled principles of law governing reimbursement of medical bills. The petitioner is entitled to reimbursement of medical bills as per the rules & instructions of State Government which would be applicable to employees as well as the retirees of the Federation. Thus, this Court is of the considered view that petitioner is entitled to reimbursement of medical bills (Annexure P-1) as admissible under the rules at PGI rates.

7. In the light of what has been discussed above, instant writ petition is allowed; order/letter dated April 23, 2015 (Annexure P-5) is

quashed; and a direction is issued to respondent No.2 – Haryana Dairy

Development Cooperative Federation Limited to release the amount of medical bills (Annexure P-1) within a period of 45 days from the date of receipt of a certified copy of this order alongwith interest @ 6% per annum.

August 10, 2017
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(Jaspal Singh)
Judge

Whether Speaking/ Reasoned:
Whether Reportable:

Yes/ No
Yes/ No