

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 7957 of 2016 (O/M)
Date of decision : 27.4.2017

A.K. Bhatnagar

..... Petitioner (s)

Versus

State of Haryana and others

..... Respondent (s)

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Pankaj Gupta, Advocate, for the petitioner.

Mr. Apoorv Garg, Deputy Advocate General, Haryana.

Mr. Jai Bhagwan, Advocate, for respondent No. 2.

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

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KULDIP SINGH J. (ORAL)

The petitioner seeks the mandamus for directing respondents to reimburse his medical bills, amounting to Rs. 40,385/-, upto 31.3.2016 alongwith interest. The petitioner also seeks the writ in the nature of certiorari for quashing the Resolution dated 27.12.2012, passed by respondent No. 2-Haryana Agro Industries Corporation Limited (in short 'respondent No. 2-Corporation') and circulated vide letter dated 7.1.2013 (Annexure-P-2), whereby respondent No. 2-Corporation has restricted the medical reimbursement for indoor treatment to the retired employees of respondent No. 2-Corporation including their dependent spouse once in entire life with the overall ceiling of Rs. 2 lacs with effect from 1.1.2013.

The undisputed facts of the present case are that the petitioner was earlier working with respondent No. 2-Corporation and retired from

CWP No. 7957 of 2016 (O/M)

service as an Assistant on 30.4.2011 on attaining the age of superannuation. It comes out that respondent No. 2-Corporation had passed a resolution on 20.9.1972 (in short 'resolution of 1972'), whereby the employees of respondent No. 2-Corporation were ordered to be treated at par with other Haryana Government employees with regard to grant of medical facilities etc. Thereafter, the present resolution dated 27.12.2012, circulated vide letter dated 7.1.2013 (Annexure-P-2), was passed to the following effect by the Board of Directors of the Corporation in its 234th meeting :-

“The Board discussed this item at length and after discussions, the Board approved the medical reimbursement for indoor treatment to the retired employees of the Corporation including their dependent spouse, once in entire life, with overall ceiling of Rs. 2.00 lacs per retiree including spouse. This decision would be made applicable for indoor medical treatment taken with effect from 1.1.2013.”

The petitioner claims that the said subsequent resolution dated 27.12.2012, circulated vide letter dated 7.1.2013 (Annexure-P-2) is illegal, discriminatory and is liable to be quashed. He also claims that his medical bills pending with respondent No. 2-Corporation to the tune of Rs. 40,385/- upto 31.3.2016, as detailed in para-13 of the present writ petition, should be reimbursed. Further direction is sought for reimbursement of the future medical bills. The petitioner claims that he has been suffering from a complicated chronic disease and getting treatment from the PGIMER, Chandigarh and the PGIMER, Chandigarh, had also issued a Complicated Chronic Disease Certificate dated 5.3.2015 (Annexure-P-4).

Respondents in the reply have taken the stand that in view of resolution dated 27.12.2012 circulated vide letter dated 7.1.2013

CWP No. 7957 of 2016 (O/M)

(Annexure-P-2), the reimbursement to the tune of Rs. 3,421/- was approved. It is stated in the reply that when the earlier resolution of 1972 was passed, respondent No. 2- Corporation was in profit, whereas now it is running into huge financial accumulated loss to the tune of Rs. 121 crores (unaudited) as on 31.3.2016. It is further stated in the reply that in view of said subsequent resolution of 1972, the petitioner is not entitled to reimbursement of his medical bills. All the rules of the Haryana Government are not applicable to the employees of respondent No. 2-Corporation.

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

Admittedly, when the petitioner joined the services of respondent No. 2-Corporation in August, 1975, the resolution of 1972 was in operation, whereby the employees of respondent No. 2-Corporation were treated at par with the Haryana Government employees with regard to grant of medical facilities. The petitioner retired from service on 30.4.2011 on attaining the age of superannuation. Thereafter, the impugned resolution dated 27.12.2012, circulated vide letter dated 7.1.2013 (Annexure-P-2) was passed by the Board of Directors of the Corporation in its 234th meeting.

The law point would arise whether after the retirement of the petitioner, amendment in the rules can be made regarding payment of medical reimbursement to the retired employees also, so as to restrict the claim to the overall ceiling of Rs. 2 lacs and that too only for once in the entire life ?

I am of the view that the petitioner is governed by service rules as were applicable to him during service and at the time of his retirement. Though, the employer is always competent to extend more benefits, but the

CWP No. 7957 of 2016 (O/M)

benefits, as applicable to him at the time of his retirement, cannot be withdrawn by passing a subsequent resolution. After the retirement of an employee, at the most, the rules can be made for future. Infact, the subsequent resolution dated 27.12.2012, circulated vide letter dated 7.1.2013 (Annexure-P-2) is made applicable to the employees, who had earlier retired from service. Admittedly, the petitioner is suffering from a complicated chronic disease, as per the Complicated Chronic Disease Certificate dated 5.3.2015 (Annexure-P-4), issued by the PGIMER, Chandigarh. He needs regular treatment from PGIMER, Chandigarh, as an indoor patient. He has infact been getting the treatment from PGIMER, Chandigarh, as per the discharge and follow up card (Annexure-P-3). I am of the view that the subsequent resolution dated 27.12.2012, circulated vide letter dated 7.1.2013 (Annexure-P-2), is to apply prospectively to the employees retiring with effect from 1.1.2013 and cannot apply to the employees, who have already retired from service, so as to withdraw the benefits, which were earlier extended to them.

The learned counsel for respondent No. 2-Corporation has argued that the resolution of 1972 is applicable to the 'employees of Corporation', which means a 'serving employee' and not the 'retired employees'. The resolution of 1972 used the words 'employees of the Corporation'. It does not say that the retired employees of the Corporation are excluded for extension of grant of medical facilities at par with the Government employees. Therefore, the words 'employees of the Corporation' will include the retired employees of the Corporation regarding grant of the medical facilities. Therefore, the petitioner will continue to govern by resolution of 1972 and the subsequent resolution dated

CWP No. 7957 of 2016 (O/M)

27.12.2012, circulated vide letter dated 7.1.2013 (Annexure-P-2), will apply prospectively and will not apply to the employees, who have already retired from service of respondent No. 2-Corporation before 7.1.2013. It being so, the petitioner is entitled to reimbursement of his medical bills, already submitted by him, as mentioned in letter dated 10.2.2016 (Annexure-P-6) till 31.3.2016 and the medical bills which may be submitted in future. Respondents are accordingly directed to reimburse the medical bills and continue to reimburse the same, if the same are in order.

In view of the matter, the present writ petition is allowed.

(KULDIP SINGH)
JUDGE

27.4.2017
sjks

Whether speaking / reasoned : Yes

Whether Reportable : Yes