

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No.1610 OF 2005
DECIDED ON: FEBRUARY 16, 2018

SUDESH SEHGAL

.....PETITIONER

VERSUS

STATE OF HARYANA AND OTHERS

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. Ravi Verma, Advocate,
for the petitioner.

Mr. RKS Brar, Additional Advocate General, Haryana with
Mr. Ram Tilak Redhu, DAG, Haryana.

JASPAL SINGH, J. (Oral)

By virtue of instant petition preferred under Article 226/227 of the Constitution of India, petitioner has sought issuance of a writ in the nature of mandamus directing the respondents to sanction reimbursement of medical expenses to the extent of Rs.26,178/- incurred on the treatment of her husband during the period from 17.05.2000 to 23.05.2000 as well as Rs.1,99,780.37 spent by the petitioner on the treatment of her husband during the period from 16.06.2002 to 01.10.2002 while getting treatment in Batra Hospital, New Delhi.

2. Undisputably, the petitioner stood retired from Education Department of the Government of Haryana on 31.08.2002 while working as Senior Lecturer in District Institute of Education & Training, Gurgaon. Her husband Shri Om Parkash Mehta had been working as Senior Lecturer in

Nirankari Baba Gurbachan Singh Memorial College, Sohna (Gurgaon) (for short, "Memorial College"), who was taken away by the nature on 01.10.2002.

3. The sole question which requires determination is whether husband of the petitioner falls within the definition of "family" as defined under the rules and instructions issued by the Government of Haryana. The word "family" has been defined in para No. 19 of Chapter 2 of the Rules known as Punjab Service (Medical Attendance) Rules, 1940, which reads as under:-

"19. Term "family defined:(i) A Govt. employee's wife or judicially separated wife (see clause iii below), husband in the case of a female Govt. employees who is residing with and wholly dependent on him/her, legitimate children, step children, legally adopted children, and parents, widowed daughters, residing with and wholly dependent on him/her."

4. Undisputably, aforesaid rules have since been repealed by Government of Haryana vide rules known as Haryana Service (Medical Attendance) Rules 2001 (for brevity, "Rules 2001") and 2(b) of the aforesaid Rules defines "family" as under:-

"2(b) "family" means

- (i) The wife or husband of the government employees,*
- (ii) The parents or step parents, or adopted parents children or adopted children and step children of the employees wholly dependent on him/her who ordinarily reside with the said employee and are not gainfully employed anywhere (in government, private, public or self employed etc.) or do not have any other source of livelihood but shall not include any other dependent relations such as brother, sister, widowed sisters, grand-parents, grand-sons, daughter-in-law etc.*

Provided such adoptions are permitted by personal law of the employee.

Explanation 1: *The rule 2(b (ii) stipulates that the children (including step-children) are included in the family provided they are wholly dependent on the employee. The fact of marriage, divorce, widowhood or the age of child is not relevant, the circumstances of the case so warrant and the employee certifies that the widowed/divorced daughter major/married children, is wholly dependent on the employee and the authority competent to sanction reimbursement if satisfied claim may be allowed.”*

5. The main point raised by learned State counsel is that the husband of the petitioner does not fall within the definition of dependent as he has been working as Senior Lecturer in Memorial College. Moreover, while declining the relief claimed by the petitioner, the respondents have relied upon letter issued by Financial Commissioner to Government of Haryana, Health Department bearing No.2/89-1 HB III-84, dated 23.08.1985, in which, the relations have been mentioned who are to be considered as dependents but the aforesaid letter which pertains to the year 1985 pales into insignificance, in view of the enactment of new Rules 2001, in which the matter stood clarified and the case of the petitioner falls within the purview thereof. Even otherwise, such a controversy came up before this Court in CWP No. 13269 of 2002, captioned as **“Smt. Santosh Gupta v. State of Haryana and others”** which was disposed of by Division Bench of this Court on 21.08.2003 and SLP preferred by the State of Haryana against the said order dated 21.08.2003 has also since been dismissed, the aforesaid order has become final and conclusive. Even, it has already been implemented and the benefits accrued thereon has been granted to

the said petitioner namely Smt. Santosh Gupta. The case of the petitioner stands squarely covered within the parameters and observations made in *Santosh Gupta's* case (supra). As such, the petitioner becomes entitled to the relief claimed through the instant petition.

6. In the light of what has been discussed above, the petition is disposed of with the direction to the respondents to consider the bills submitted by the petitioner in the light of instructions so far it pertains to the period prior to the implementation of Rules 2001 and to consider the other bills within the purview of Rules 2001, within a period of two months and if the concerned authority comes to the conclusion that petitioner is entitled to the reimbursement of medical bills or to partial amount thereof, the same shall be calculated and disbursed to the petitioner within a period of next 1 month.

7. In the event of non-compliance of this order, petitioner shall be entitled to interest @ 9% per annum from the date of filing of instant petition till actual payment.

FEBRUARY 16, 2018
sonika

(JASPAL SINGH)
JUDGE

Whether speaking/reasoned *Yes*
Whether reportable *Yes/No*