

*** IN THE HIGH COURT OF DELHI AT NEW DELHI**

% Date of decision: 21st December, 2018

+ LPA 729/2018

DEVENDRA KUMAR GUPTA

..... Appellant

Through: In person.

versus

UNION OF INDIA & ORS

..... Respondents

Through: Mr. Anil Soni, CGSC for UOI with
Mr. Abhinav Tyagi, Adv.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE V. KAMESWAR RAO

V. KAMESWAR RAO, J. (ORAL)

1. The challenge in this Intra-Court Appeal is to the order dated November 16, 2018 passed by the learned Single Judge in W.P.(C) 12259/2018, whereby the learned Single Judge has dismissed the writ petition.

2. The prayers sought for by the appellant before the learned Single Judge was for a direction to the respondent nos. 1 and 2 for issuing life-time CGHS Card on payment of Rs.60,000/- to the appellant.

3. The appellant had superannuated from services with the Department of Telecommunication w.e.f January 31, 2015. Prior to the said date, a

chargesheet was issued to the appellant in April, 2014. On the date when the appellant superannuated, the said proceedings were pending. In view of the pendency of the proceedings, the appellant's pension was fixed provisionally. That apart, because of the pendency of the disciplinary proceedings, the appellant was disentitled to obtain life-time CGHS Card by making one-time payment, which at that time was Rs. 60,000/-. This resulted in the appellant subscribing to CGHS Card by making annual payments. He made a representation dated February 27, 2017 which was not accepted. The appellant was finally exonerated from the charges on June 5, 2018. In the meantime, the charges of life-time CGHS Card were increased from Rs.60,000/- to Rs.1,20,000/-. In fact, it was his submission before the learned Single Judge that the respondents must claim Rs.60,000/- only and not Rs.1,20,000/- for issuing a life-time CGHS Card.

4. The learned Single Judge rejected the contention of the appellant by holding (i) there is no communication on record by the appellant at the time of his superannuation requesting the respondents to consider the issue of life-time CGHS Card, (ii) the appellant is indirectly seeking restitution on account of delay in completion of the disciplinary proceedings (iii) the Office Memorandum issued by the Ministry of Health and Family Welfare, the monetary ceiling limit for various entitlement of the pensioner for the CGHS

Card were also increased along with subscription charges and therefore the subscriber would be also entitled to additional facilities. Finally, the learned Single Judge held that the court cannot direct for issuance of CGHS Card at the rates which were applicable in the year 2015.

5. The appellant who appeared in person made similar submissions as were made before the learned Single Judge. In other words, he states that the delay in completing the disciplinary proceedings cannot be attributed to him and as such he cannot be put in a disadvantageous position.

6. We are unable to accept the said submission made by the appellant for the simple reason, the disciplinary proceedings were held by his employer, but in so far as the issuance of CGHS Card is concerned, the same has to be issued by a separate authority. In other words, the authority which has to issue the CGHS Card is not at fault.

7. Reliance was placed by the appellant on the order of the Supreme Court in his own case ***D.K. Gupta v. Union of India and Anr., Special Leave Petition NO. 1549/2018*** wherein the following order has been passed:

“Learned Additional Solicitor General appearing for the respondents submitted that this petition has rendered infructuous because the departmental proceedings in question has since been withdrawn.

We record his statement.

We however, direct the respondents to settle all the legal claims relating to petitioner's service in accordance with the Rules applicable to him, preferably within six weeks from today.

The special leave petition is accordingly dismissed as having rendered infructuous, subject to aforesaid directions.

Pending application, if any, also stands disposed of."

8. Suffice it to state that the said order will not enure the benefit to the appellant inasmuch as the Supreme Court has directed the respondents to settle all the legal claims of the appellant's service in accordance with the rules applicable to him. It is not the case of the appellant that the rules stipulates for grant of CGHS Card on payment of Rs.60,000/- as on date. The respondents are right in claiming the charges as are in vogue on the date when the appellant had made the application. That apart, we agree with the reasoning given by the learned Single Judge on all the three aspects.

9. We do not see any reason to interfere with the impugned order.

The appeal is dismissed.

V. KAMESWAR RAO, J

CHIEF JUSTICE

DECEMBER 21, 2018/jg