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

% **Date of decision: 24th December, 2020**

+ **W.P. (C) 11153/2020**

JAGDISH PARSAD **.....Petitioner**

Through: Mr. Brijesh Sharma, Advocate.

versus

UNION OF INDIA & ORS. **.....Respondents**

Through: Mr. Anurag Ahluwalia, Mr.
Abhigyan Siddhant, and Mr.
Nitnem Singh Ghuman, Advocates
with Mr. Pushpender Saxena,
Assistant Commandant, CISF.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

HON'BLE MS. JUSTICE ASHA MENON

[VIA VIDEO CONFERENCING]

RAJIV SAHAI ENDLAW, J.

CM APPL. No.34791/2020 (for exemption from filing the certified copies, dim annexures and in prescribed format)

1. Allowed, subject to just exceptions and as per extant rules.
2. The application is disposed of.

W.P. (C) 11153/2020, CM APPL. No.34790/2020 (of the petitioner for interim directions)

3. The petitioner superannuated from the respondents Central Industrial Security Force (CISF) from the rank of Sub-Inspector and is

now 70 years old. He has filed this petition, (i) seeking mandamus to the respondents Ministry of Home Affairs (MHA) and CISF, to grant/accord “Fixed Medical Allowance” to the petitioner as per his entitlement and in the alternative, seeking a direction to the respondents to return back/handover the medical Central Government Health Scheme (CGHS) card to the petitioner; and, (ii) seeking a direction to the respondents, specially respondent no.3 CISF and its concerned officials, to pay the entire arrears of “Fixed Medical Allowance” to the petitioner, from August, 2018 onwards till date.

4. The counsel for the respondents along with Mr. Pushpender Saxena, Assistant Commandant, CISF appear and inform, (i) that the petitioner, at the time of superannuation, had availed of the option to draw “Fixed Medical Allowance” and not avail of the CGHS facilities; (ii) thereafter he opted for a change of his entitlement from that of “Fixed Medical Allowance” to that of availing of the CGHS facility and which option was permitted to be exercised and the petitioner was issued a new CGHS card bearing no. 4776898; and, (iii) though the petitioner, under the circular PAO/CISF/MHA/PEN/2016-2017/642 issued by the respondent no. 3 CISF, was entitled to make a change as aforesaid only once, but yet again wanted to switch over from availing the facility of CGHS to that of “Fixed Medical Allowance” and claims to have deposited his CGHS card on 6th August 2018 along with a cover letter at the CGHS Head Quarters at R.K. Puram, New Delhi.

5. We have enquired from the counsel for the respondents appearing on advance notice, that even if the petitioner is not entitled to again switch over from CGHS facility to “Fixed Medical Allowance”, why is

the CGHS card of the petitioner being not returned to the petitioner.

6. The counsel for the respondents states that the petitioner, as per his own claim, has deposited the CGHS card at the CGHS Head Quarters at R.K. Puram, New Delhi and not with the respondent no. 3 CISF. It is also stated that the CGHS card was valid for a period of three years and had to be got revalidated but the petitioner, instead of getting it revalidated, deposited the same with the CGHS. It is also stated that the petitioner has not impleaded CGHS as a party and thus, the counsel does not have instructions from CGHS. It is suggested that the petitioner be directed to make CGHS a party and then instructions shall be obtained from CGHS.

7. However considering the limited controversy entailed, inasmuch as the petitioner, in the alternative, has himself sought the relief of his CGHS card being returned, we have enquired from the counsel for the respondents, whether or not CGHS is no independent entity and comes within the domain of MHA, which is already a party.

8. The answer is in the affirmative.

9. We, in the circumstances, decline the request of the counsel for the respondents for adjournment, to take instructions from CGHS.

10. At this stage, the counsel for the respondents states that on checking up, he finds that the CGHS comes within the domain of Ministry of Health and Family Welfare.

11. Even if that be so, we do not deem it appropriate to keep the petition pending. The counsel for the petitioner, on enquiry states that the petitioner deposited his card at the CGHS Head Quarters at R.K. Puram, New Delhi.

12. The respondents, including the CGHS, are directed to, on the

petitioner approaching the CGHS Head Quarters at R.K. Puram, New Delhi, either return the CGHS card deposited by the petitioner, if valid, or revalidate the same or issue a fresh CGHS card to the petitioner and on the basis whereof the petitioner, as per the CISF Rules, 2001 and entitlement, can avail of the CGHS facilities.

13. The counsel for the respondents, through the officials of the respondents, is requested to forward this order to the concerned officials and the officials of the CGHS are also directed to, on the petitioner approaching them with this order, comply with the same.

14. The petition is disposed of.

**RAJIV SAHAI ENDLAW
(JUDGE)**

**ASHA MENON
(JUDGE)**

DECEMBER 24, 2020
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