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W.P.No. 20667 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.07.2022

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P.No. 20667 of 2018

J.Uma Magesh,
Ex.HC/GD, No.961160389

..Petitioner

Vs.

1. The Union of India,
Represented by its Secretary to the Government,
Department of Home Affairs,
New Delhi.
2. The Director General of Police,
Directorate General,
CRPF, Block No.1,
CGO Complex, Lodhi Road,
New Delhi – 110 003.
3. The Deputy Inspector General of Police,
(Administration), CRPF,
Directorate General,
CRPF, Block No.1,
CGO Complex, Lodhi Road,
New Delhi – 110 003.
4. The Inspector General of Police,
Central Sector, CRPF,
Gomati Nagar,
Lucknow – 226 010.
5. The Deputy Inspector General of Police,



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Group Centre, CRPF,
Kathagodam, Uttarkhand.

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6. The Commandant,
195 Battalion, CRPF,
Electricity Board Sub-Division,
Barsoor, Dantewada,
Chattishgarh – 494 441.

7. The Additional Director,
Central Government Health Scheme and
Family Welfare,
Rajaji Bhavan, Besant Nagar,
Chennai – 600 020.

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India for Writs of Certiorarified Mandamus, calling for the records pertaining to the order of 3rd respondent office vide his letter No.M.III.1/2017-18-DA-5 dated 30.06.2017 rejecting the petitioner medical reimbursement claim for Rs.24,13,114/- towards the treatment of Falciparam Malaria and quash the same directing the respondents to entertain the medical reimbursement claim amounting to Rs.24,13,114/- and make payment of it out of Government fund or any regimental fund being a genuine case.

For Petitioner : Ms.R.Meenakshi

For the Respondents : Mr.K.Srinivasamurthy
Senior Central Government
Standing Counsel



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ORDER

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2. The petitioner was member of the respondents viz., CRPF and he voluntarily retired from service on 31.10.2016.

3. However immediately after his retirement i.e., first week of November 2016, the petitioner was suffered with Falciparum Malaria, which is one of the rare disease. Because of which, he was admitted in hospital on 11.11.2016 as in-patient and he had to take treatment for several days as in-patient, then only he would recover from such rare illness, as otherwise would have been fatal to the life of the petitioner.



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4. In this regard, the petitioner had to spent a sum of Rs.24,13,114/- (Rupees twenty four lakhs thirteen thousand one hundred and fourteen only) and in order to reimburse the same, the petitioner, when made a request to the respondents CRPF, the same was rejected through the order dated 30.06.2017, where they have stated the following:

“Please refer your Medical Re-imburement claim application regarding/appeal regarding.

2. Vide your letter under reference, a medical reimbursement claim for Rs.24,13,113.81 only received in this officer is returned herewith. In this regard, 195 Battalion office letter No.M.III.1/17-18. Acct-2 dated 17.04.2017 may be referred. (copy enclosed). In which it has been clearly mentioned that in CRPF for serving personnel only CS MA Rule is applicable and as per this rule, there is a provision to reimburse the expenditure incurred for treatment by them. It has also been mentioned that there is a provision for the personnel who retired from service that in the area which the CGHS facilities are not available, the retired personnel are being given medical allowance along with the pension every month and no other provision is there for entertaining such medical claim. If the retired employees are not drawn medical allowance, they are availing the medical facilities from the CGHS. For such facilities, the action is being taken by the office of CGHS.

3. Since you have already been proceeded on voluntary retirement from this force on 31.10.2016 (afternoon), your medical reimbursement claim received are returned herewith as it is and also informed that there is no provision to entertain the medical claim of the retired person.



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Encls. (01 Medical Reimbursement claim)

sd/- 30/06/2017

***Deputy Inspector General of Police (Adm)
Directorate, CRPF, New Delhi.”***

5. Aggrieved over the said order, the present writ petition has been filed.

6. Heard Ms.R.Meenakshi, learned counsel appearing for the petitioner, who would submit that, though the petitioner had been relieved from duty by way of voluntarily retirement with effect from 31.10.2016 within three days, since he returned to his home place, he was suffered with the said disease viz., Falciparum Malaria, which is one of the very rare disease, which is fatal to the person, who is getting affected unless and until it is properly treated. Therefore, the petitioner had no other option except to admit in the hospital, where he had taken treatment as in-patient for some time, then only after spending huge money to the extent of Rs.24 lakhs and all, he was be able to recover from the illness.

7. Such a huge money cannot be spent by the petitioner, even if the



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entire retiral benefits of the petitioner is put in, still it is a huge demand, for which the petitioner is not about to spent. Therefore, it become inevitable for the petitioner to seek for the reimbursement.

8. When such a request was made, citing the reason that the petitioner had been relieved from duty on 31.10.2016 pursuant to the voluntarily retirement service, they denied the benefit.

9. Learned counsel appearing for the petitioner in this regard would rely upon the stand taken by the respondents in paragraph 9 of the counter affidavit and state that even after retirement, if there is any rare disease, under which, if any retired person of the Force is suffered, a medical reimbursement would be possible.

10. Learned counsel would further submit that the reasons cited by the respondent in the impugned order that Central Government Health Scheme is the only way out for the retired employees, where the petitioner had become a member, he would have been referred to the Government Hospital for taking a free treatment, that reason cannot be



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made against the petitioner because the petitioner after his retirement on 31.10.2016, did not find any time and no documents were available for joining the Central Government Health Scheme (in short, CGHS). Therefore, that benefit also had been denied to the petitioner now. Hence, the learned counsel seeks indulgence of this Court against the impugned order and seek for a consequential direction to the respondents to reimburse the medical expenses incurred by the petitioner as stated supra.

11. Heard Mr.K.Srinivasa Murthy, learned Senior Central Government Standing Counsel appearing for the respondents, who relied upon the averments made in the counter affidavit and would contend that once the petitioner is relieved from duty on retirement i.e., on 31.10.2016, he is no more a member of the Force. Therefore, there is no link between the petitioner and the Force i.e., CRPF. Hence what are all the benefits, which were available including the medical reimbursement for the member of the Force during the service of the petitioner cannot be extended to the retired person like the petitioner.



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12. Learned counsel would also submit that, in respect of the CGHS, the pensionable benefits based on the last pay slip before retirement could be taken as a evidence and accordingly he could have joined in the CGHS and had he joined in the CGHS definitely he would have been given the benefit of free treatment and such benefit, the petitioner could not avail because he did not join in the CGHS. Therefore, the inaction on the part of the petitioner cannot be attributable to the respondents CRPF and hence the petitioner is not entitled for any reimbursement as claimed by him. Therefore, the impugned orders rejecting such plea made by the petitioner is sustainable, he contended.

13. I have considered the said submissions made by the learned counsel appearing for both sides and have perused the materials placed before this Court.

14. As the per the Rule available, once the retired employee is no more member of the Force i.e., CRPF, the medical benefits including the medical reimbursement, which are available to the serving employees cannot be extended or expected to be extended to the retired employee



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like the petitioner.

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15. Insofar as the benefit under CGHS is concerned, since the petitioner had not joined under CGHS immediately after his retirement that benefit also could not be extended to him.

16. However as per the procedure, which is in vogue, insofar as the retired employee is concerned, if he suffered with any rare disease, a maximum amount of medical assistance to the extent of Rs.50,000/- (Rupees Fifty Thousand only) can be allowed and this has been accepted by the respondents in paragraph 9 of the counter affidavit, which reads thus:

“9. With regard to para 13 of the Writ petition, I respectfully submit that, when an employee is retired from service, his/her membership of Central Welfare Fund, Battalion Welfare fund as well as Risk Fund stands ceased from the date of retirement. However, as per Chapter-2 [para 4(i)] of Force institutions and Fund Manual 1976 (corrected up to 01.04.2012), for treatment of specific disease of self and spouse of retired personnel once in a life time on the principle of rarest of rare case, but such life assistance will not exceed Rs.50,000/- (Rupees Fifty Thousand) per case. Hence, the averments of the petitioner and denied.”

17. If that being the case, certainly the petitioner would be entitled



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to get that maximum medical assistance of Rs.50,000/-(Rupees Fifty Thousand only) since the petitioner had been suffered with a rarest of rare disease viz., Palciparam Malaria and have medical discharge summary to that effect given by the hospital, where the petitioner had taken treatment is available in the typed-set of papers. Therefore, having taken note of the afore-stated rule position as well as the factual matrix of the case as projected by the petitioner as well as the respondents, this Court is inclined to dispose of this writ petition with the following orders:

- ◆ That the impugned order cannot be said to be an infirm one.

Therefore, it is to be sustained, accordingly it is sustained, but at the same time, in view of the paragraph 9 of the counter affidavit as quoted herein above, that the petitioner would be entitled to get the maximum assistance of Rs.50,000/- (Rupees Fifty Thousand only) being a maximum one available to the petitioner, which may not be fully helpful to the petitioner for the entire money he has spent for, for his illness, but atleast may be some solatium, which alone is permissible under the Rule. Therefore, such a direction is hereby given.



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- ◆ The needful as indicated above that is payment of Rs.50,000/- (Rupees Fifty Thousand only) to the petitioner as part of his medical expenses shall be made within a period of eight(8) weeks from the date of receipt of a copy of this order.

With these directions, this writ petition is disposed of accordingly.

No costs.

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Index : Yes/No

Internet: Yes/No

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To

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Represented by its Secretary to the Government,
Department of Home Affairs,
New Delhi.
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Directorate General,
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