

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18245 of 2017

Dr. Janardan Sharma, Son of Sri Krishna Sharma, Ex- Youth Coordinator,
Nehru Yuva Kendra, Bhojpur, Arrah Bihar, Resident of Flat No. M-1/3, Road
No.11, P.O.- Rajendra Nagar, P.S.- Kadamkuan, District- Patna- 800016
Bihar.

... .. Petitioner/s

Versus

1. The Union of India through the Secretary, Ministry of Youth Affairs and Sports, Shastri Bhawan, New Delhi-110001.
2. The Director General, Nehru Yuva Kendra Sangathan, 2nd Floor, Core-IV, Scope Minar, Lakshmi Nagar, District Centre, Vikash Mark, Delhi-110092.
3. The Deputy Director Personnel, Nehru Yuva Kendra Sangathan, 2nd Floor, Core-IV, Scope Minar, Lakshmi Nagar, District Centre, Vikash Marg, Delhi-110092.
4. The Zonal Director, Nehru Yuva Kendra Sangathan, Bihar, Patna.
5. The Director General, Central Government Health Scheme CGHS, Government of India, New Delhi.
6. The Additional Director, Central Government Health Scheme, Chhaju Bagh, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Munna Pd Dixit, Advocate Mr. S.K. Dixit, Advocate Mr. S.K. Chaubey, Advocate Mrs. Swastika, Advocate
For the Respondent/s	:	Mr. Bindhyachal Ray, CGC

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

14 04-05-2023 On 14.12.2022, the matter was heard and the following
order was passed:-

“Heard the learned counsels for the respective parties.

One of the issue involved in the present petition is whether petitioner is entitled to the benefit of CGHS facility in terms of Circular dated 07.10.2011 issued by the Government of India to the extent that extension of CGHS facilities to



retired employees of autonomous bodies and statutory bodies of the Government of India.

Learned counsel for the respondents submitted that petitioner has been sanctioned pension under CCS (Pension) Rules, 1972. In such an event, he is entitled to the benefit of Medical Reimbursement/Attendance Rules, 1966. In other words, he would be benefited by two schemes for health benefit.

One under the Medical Reimbursement/Attendance Rules, 1966 and another under the CGHS Scheme. In this regard, there is no counter affidavit or affidavit after restoration of writ petition in the light of allowing Civil Review petition on 07.01.2020 read with Apex Court decision dated 10.09.2018 vide Annexure - 2. Therefore, concerned respondent is hereby directed to file a detailed counter affidavit as to how the Circular dated 07.10.2011 is not applicable to the petitioner and he is entitled to have the medical facility only under the Medical Attendance Rules, 1966 in the light of the fact that he has been extended pension under CCS (Pension) Rules, 1972. Such affidavit/counter affidavit be filed before the next date of hearing. Relist this matter on 25.01.2023."

2. Respondents have filed their counter affidavit on 06.02.2023. In paragraph nos. 6 and 7 of the counter affidavit it is averred as under:-

"6. That the OM No. 8-11011/38/2011-CGHS(P) dated 07.10.2011 issued by Ministry of Health & Family Welfare conveys the decision of the competent authority that the: "extension of CGHS facilities, on their retirement, to all those Central Government employees who have proceeded to all those Central Government employees who have proceeded to Statutory Bodies(SB)/ Autonomous Bodies(AB) of Central Government either on deputation initially and then get absorbed in the SA/AB, or proceeded to SB/AB on absorption basis, subject to the condition that they are in



receipt of Central Civil Pension."

7. That the petitioner was on deputation to the Central Government from the State Government and subsequently got absorbed in Autonomous Body i.e. NYKS. Therefore, the aforementioned O.M. doesnot apply in his case."

3. In this backdrop, it is necessary to examine whether the petitioner Dr. Janardan Sharma at any given point of time had the status of Central Government employee or not? It is not in dispute that the petitioner was an employee of the State Government (State of Bihar). While he was working as a State Government employee in the State of Bihar, his services were drafted on deputation to Nehru Yuva Kendra Sangathan (in short NYKS) which is an autonomous body of the Central Government. Thereafter, his services were absorbed in NYKS and he has attained age of superannuation and retired from service on 31.03.2008. In this backdrop what is required to be examined is whether at any given point of time petitioner was holder of the post of Central Government employee or not? In his entire service he has not been appointed in any of the department of the Central Government so as to draw inference that he was a Central Government employee and he had the status of Government servant. On the other hand, while he was working as State Government employee in the State of Bihar, his services were deputed to NYKS and his services were absorbed in NYKS which is autonomous body and NYKS is not one of the Central



Government Department. In this backdrop, reading of para 6 of the counter affidavit suffice that such of those Central Government employees who have proceeded to statutory body (SB) autonomous body (AB) of Central Government either on deputation initially and then get absorbed in SB/AB or proceeded to SA/AB on absorption basis subject to the condition that they are in receipt of central civil pension. Therefore, the petitioner has not stepped into the post of the Central Government employee and such status thereto. No doubt he has been extended central civil pension. Grant of central civil pension is an independent statutory provision. In other words, NYKS might have adopted Central Civil Pension Rules so as to extend pension to its employees. Merely availing central pension, the petitioner is not entitled to take shelter under OM dated 07.10.2011 insofar as extension of CGHS facilities on his retirement. Accordingly, the petitioner has not made out a case so as to interfere with the order of the C.A.T. dated 19.01.2017 passed in Original Application No. 896 of 2015.

4. Accordingly, the writ petition stands dismissed.

(P. B. Bajanthri, J)

(Arun Kumar Jha, J)

Balmukund/
DKS/-

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