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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-23923-2015 (O&M)

Date of Decision: 03.11.2023

SUDARSHAN KUMARI

.....Petitioner

V/s.

STATE OF PUNJAB AND OTHERS

.....Respondents

CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA.

Present Mr. G.S. Bal, Senior Advocate, assisted by
Mr. Dilshad S. Gill, Advocate,
for the petitioner.

Ms. Shivani Sharma, DAG, Punjab.

SANJEEV PRAKASH SHARMA, J (Oral)

1. The petitioner by way of this Writ Petition has prayed for issuance of a Writ in the nature of *certiorari* for quashing of the order dated 27.10.2014 (Annexure P-2) whereby the claim of the petitioner for medical reimbursement on account of medical reimbursement of her husband has been rejected.

2. The deceased petitioner was a Government Servant working with the Punjab Government, while her husband was serving in a Private Aided School. After attaining the superannuation age of 58 years, the petitioner's husband started getting basic pension, however, as he was an employee in Private Aided Institution, the Punjab Government only allowed him a fixed amount for medical treatment. The petitioner's husband had undergone surgery treatment of joint knee replacement from 08.04.2014 to 16.04.2014 incurring a total expenditure of ₹5,28,988/- which she claimed on the basis that her husband was dependent on her. The respondents,

however, have refused the said claim on account that the petitioner's husband was already receiving pension and therefore, cannot be said to be dependent on the petitioner.

3. Learned counsel for the petitioner has relied on the cases of State of Madhya Pradesh Vs. M.P. Ojha; AIR 1998 SC 659 and G.L. Nagpal Vs. State of Haryana; 2000 (4) RSJ 368 to submit that the husband of the deceased-petitioner was not wholly dependent on the pension which he was receiving, but was dependent on the petitioner with regard to the medical ailments. Merely because he was receiving pension, would not deprive the petitioner for claiming reimbursement on medical treatment which she has got done relating to her husband who is dependent on her in old age.

4. Learned counsel for the petitioner has referred Para 12 of the MP Ojha (Supra) wherein the apex Court has held as under:-

"12. The expression "wholly dependent" is not a term of art. It has to be given its due meaning with reference to the Rules in which it appears. We need not make any attempt to define the expression "wholly dependant" to be applicable to all cases in all circumstances. We also need not look into other provisions of law where such expression is defined. That would likely to lead to results which the relevant Rules would not have contemplated. The expression "wholly dependent" has to be understood in the context in which it is used keeping in view the object of the particular Rules where it is contained. We cannot curtail the meaning of "wholly dependent" by reading into this the definition as given in SR 8 which has been reproduced above. Further, the expression "wholly dependent" as appearing in the definition of family as given in Medical Rules cannot be confined to mere financial dependence. Ordinarily dependence means financial dependence but for a member of family it would mean other support, may be physical, as well. To be "wholly dependent" would therefore

include both financial and physical dependence. If support required is physical and a member of the family is otherwise financially sound he may not necessarily be wholly dependent. Here the father was 70 years of age and was sick and it could not be said that he was not wholly dependent on his son. Son has to look after him in his old age. Even otherwise by getting a pension of Rs. 414/- per month which by any standard is a paltry amount it could not be said that the father was not "wholly dependent" on his son. That the father had a separate capacity of being a retired Government servant is immaterial if his case falls within the Medical Rules being a member of the family of his son and wholly dependent on him. A flexible approach has to be adopted in interpreting and applying the Rules in a case like the present one. There is no dispute that the son took his father to Bombay for treatment for his serious ailment after getting due permission from the competent authority. It was submitted before us that the father being a retired Government servant could himself get sanction for treatment outside the State as a special case from the competent authority. It is not necessary for us to look into this aspect of the matter as we are satisfied that under the relevant Medical Rules, the father was member of the family of his son and was wholly dependent on him and the 2nd respondent was thus fully entitled to reimbursement for the expenses incurred on the treatment of his father and other travelling expenses."

5. Learned counsel for the petitioner has also referred to the judgment passed in **G.L. Nagpal** Vs. **State of Haryana** (Supra) to submit that the claim of treatment of husband, who is a pensioner, can be reimbursed to the wife, who is a Government Servant.

6. *Per contra*, learned State counsel on the other hand relies on the judgments passed in the case of **Mohinderjeet Kaur** Vs. **State of Haryana**; 2000(3) SCT 983 and **Banshi Lal** Vs. **State of Haryana and others**; 2015(1) SLR 177 to submit that if a Government Servant is

receiving pension, he cannot be treated to be a dependent on any other persons, who may be also a Government Servant.

7. I have considered the submissions of the learned counsel for the parties.

8. From careful and detailed discussions in MP Ojha (Supra), this Court finds that a flexible approach has to be adopted in interpreting the provisions. While the petitioner’s husband may be receiving pension but admittedly the benefit of medical reimbursement is not available to him. Thus, for medical treatment, he would be dependent upon his spouse-wife who is a Government Servant and being a Government Servant, if any expenditure is borne by the wife, the State has to reimburse the same.

9. In view thereof, the petitioner-wife was entitled to claim reimbursement of the amount of treatment of her husband and the respondent-State in terms of the Rules relating to reimbursement was required to reimburse the medical expenses.

10. The judgments passed by the learned counsel for the petitioner as above, therefore, are required to be considered in the aforesaid aspects.

11. The Writ Petition is accordingly allowed.

12. All pending applications filed in this Writ Petition shall also stand disposed of.

November 3, 2023
Ess Kay

[SANJEEV PRAKASH SHARMA]
JUDGE

Whether speaking / reasoned	:	Yes/No.
Whether Reportable	:	Yes/No