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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

1.

CWP-7911-2021 (O&M)
Date of decision: 16.10.2024
- Union of India and another

VERSUS

...Petitioners
- Sunita Walia and another

...Respondents
2.

CWP-1182-2020 (O&M)
- Union of India

VERSUS

...Petitioner
- Parveen and another

...Respondents
3.

CWP-10770-2021 (O&M)
- Union of India and others

VERSUS

...Petitioners
- Dev Raj and another

...Respondents
4.

CWP-1771-2021 (O&M)
- Union of India and others

VERSUS

...Petitioners
- Central Administrative Tribunal, Chandigarh Bench, Chandigarh and another

...Respondents
5.

CWP-5963-2021 (O&M)
- Union of India and others

VERSUS

...Petitioners
- Parkash Singh and another

...Respondents
6.

CWP-5944-2021 (O&M)
- Union of India and others

VERSUS

...Petitioners
- Harvinder Rana and another

...Respondents



7. CWP-2894-2020 (O&M)

Union of India
VERSUS
...Petitioner

Tulsi Devi and another
...Respondents

8. CWP-6989-2020 (O&M)

Union of India and others
VERSUS
...Petitioners

Bimla Devi and another
...Respondents

9. CWP-7963-2021 (O&M)

Union of India and another
VERSUS
...Petitioners

Banarsi Dass Gupta and another
...Respondents

CORAM : HON'BLE MR. JUSTICE DEEPAK SIBAL
HON'BLE MR. JUSTICE DEEPAK MANCHANDA

Present: Mr. Parvesh K. Saini, Senior Panel Counsel
for the petitioner(s)
(in CWP Nos.7911, 10770, 5944 & 7963 of 2021 and
CWP-6989-2020)

Mr. Sunil Kumar Sharma, Senior Panel Counsel
for the petitioners (in CWP-1771-2021)

Mr. Ashish Rawal, Senior Panel Counsel
for the petitioners (in CWP Nos.1182, 5963 & 2894 of 2020)

Mr. Jagdeep Jaswal, Advocate
for respondent(s) (in CWP Nos.7911 & 7963 of 2021)

Mr. Mukesh Kumar Bhatnagar, Advocate
for respondent No.1 (in CWP Nos.5944 & 1771 of 2021)

**DEEPAK SIBAL, J.(ORAL)**

1. These nine petitions being CWP Nos. 7911 of 2021, 1182 of 2020, 10770 of 2021, 1771 of 2021, 5963 of 2021, 5944 of 2021, 2894 of 2020, 6989 of 2020 and 7963 of 2021 involve similar questions of fact and law and therefore are being disposed of through a common judgment. However, for the sake of convenience facts are being taken from CWP-7911-2021.

2. On 10.01.2012, respondent No.1 sought and got voluntary retirement. At that time, she was serving as a Postal Assistant in Postal Store Depot, BRS Nagar, Ludhiana. On 21.09.2018 her husband complained of breathlessness and chest pain and therefore, was admitted to the Hero Dayanand Medical College Heart Institute, Ludhiana (for short – hospital). After undergoing medical tests/investigations he underwent Bypass Heart Surgery on 25.09.2018 and was discharged on 01.10.2018. For his medical treatment an amount of ₹ 2,65,792/- had been incurred. Thereafter, he was readmitted to the hospital on 04.10.2018 and was discharged on 06.10.2018 and ₹ 19,646/- for the medical expenses were incurred. Respondent No.1 sought reimbursement of a total amount of Rs.2,85,438/- from her erstwhile employer claiming her husband to be dependent upon her. On 22.03.2019, her claim was rejected by the appellants on the ground that respondent No.1 had retired on 10.01.2012 and under the Central Services (Medical Attendance) Rules, 1944 (for short – 1944 Rules) no medical reimbursement was admissible to the retirees or their dependents. Respondent No.1 challenged the rejection order dated 22.03.2019 through filing of an original application before the Central Administrative Tribunal, Chandigarh Bench, Chandigarh (for short – the Tribunal). Through order



dated 16.12.2020, the Tribunal relied on a Division Bench's judgment of this Court in ***Union of India and others Vs. Mohal Lal Gupta and others***, 2018 (1) SCT 686 and accepted respondent No.1's claim with a further direction to the Union of India to consider respondent No.1's claim in the light of the law laid down in ***Mohan Lal Gupta's*** case (supra). The judgment of the Tribunal is the subject matter of challenge before this Court through the instant petition at the instance of the Union of India.

3. Learned counsel for the parties have been heard.

4. It is not disputed that respondent No.1 was serving as a Postal Assistant under the Postal Store Depot, BRS Nagar, Ludhiana; on 10.01.2012, she voluntarily retired from service; from 21.09.2018 till 01.10.2018, her husband remained admitted in the hospital as he underwent Bypass Heart Surgery; for the medical treatment her husband, a total expenditure of ₹ 2,65,792/- had been incurred; respondent No.1 was residing in an area not covered under the Central Government Health Scheme (for short – CGHS) and therefore, in receipt of medical allowance at the rate of ₹ 100/- per month and thereafter, ₹ 500/- per month which was subsequently enhanced to ₹ 1,000/- per month and that her claim for medical reimbursement for treatment of her husband was denied by the Government of India only on the ground that the 1944 Rules did not permit any medical reimbursement to retired government employees or their dependents.

5. It is also not disputed before us that dependents of the employees of the Government of India are entitled to claim medical reimbursement and that respondent No.1's spouse was not dependent on respondent No.1.



6. The issue of medical reimbursement to retired employees of the Government of India, in the background of the facts similar to respondent No.1's case, already stands considered and decided by a Division Bench of this Court in favour of the retired employees. In ***Mohinder Singh Vs. Union of India and others*** 2008 (3) SLR 341 the petitioner therein after serving the Government of India, retired from service on 30.04.2001. On 03.07.2005, he was admitted to the Daya Nand Medical College & Hospital, Ludhiana for medical treatment and was discharged on 06.07.2005. He incurred an expenditure of ₹ 18,645/- on his treatment which he claimed from the Government of India. His claim was rejected on the ground that he was in receipt of medical allowance and that there was no provision under the 1944 Rules which allowed reimbursement of medical expenses to employees who had retired after serving the Government of India. The Division Bench considered the issue and held in favour of the petitioner therein by holding as follows:-

“6. In the Nabhi's Compendium of Orders under Central Government Health Scheme texts of various orders passed by the Central Government have been incorporated. At page 206 of this book, text of DOP & PW. O.M. No. 45/57/97-P & OW dated December 19, 1997 has been given which is as under :-

"The undersigned is directed to state that in pursuance of Government's decision on the recommendations of the 5th Central Pay Commission announced in this Department's resolution No. 45/86/97-P & P.W. (A) dated 30-9-1977, sanction of the President is hereby accorded to the grant of fixed medical allowance @ Rs. 100 p.m to Central Government pensioners/family pensioners/residing in areas not covered by Central Government Health Scheme administered by the Ministry of Health & Family Welfare and



corresponding Health Schemes administered by other Ministries/Departments for their retired employees for meeting expenditure on day- to-day medical expenses that do not require hospitalization"

7. A perusal of the above text makes it clear that fixed medical allowance @ Rs. 100/- p.m is given to the Central Government pensioners residing in areas not covered by CGHS, for meeting day-to-day medical expenses which do not require hospitalization. Therefore, we hold that the petitioner being a resident of the area not covered by CGHS and getting fixed medical allowance of Rs. 100/- per month for meeting day-to-day medical expenses that do not require hospitalization, is entitled to reimbursement of medical expenses for his heart ailment for which he remained hospitalized in D.M.C. Ludhiana.

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10. While concluding the matter, we may also refer, to the Text of M.H. & F.W.O.M. No. S-14025/4/96 M.S dated June 05, 1998, regarding extension of the Rules to pensioners residing in areas not covered by CGHS, which is at page 215 of the Nabhi's Compendium of Orders. For facility of reference, it is reproduced as under:-

"The undersigned is directed to refer to the Department of Pension and Pensioners' Welfare O.M. No. 45/74/97-PP & PW (C) dated 15.4.1997 on the above subject and to say that it has been decided by the Ministry that the pensioners should not be deprived of medical facilities from the Government in their old age when they require them. This Ministry has, therefore, no objection to the extension of the CS (MA) Rules to the Central Government pensioners residing in non CGHS areas as recommended by the Pay Commission. However, the responsibility of administering the CS (MA) Rules for pensioners cannot be handled by CGHS. It should be administered by the respective Ministries/Departments



as in the case of serving employees covered under CS (MA) Rules, 1944. The Department of Pension and Pensioners Welfare would need to have the modalities worked out for the implementation of the rules in consultation with the Ministries/Department prior to the measure being introduced to avoid any hardship to the pensioners. The pensioners could be given a one-time option at the time of their retirement for medical coverage under CGHS or under the CS (MA) Rules, 1944. In case of a pensioner opting for CGHS facilities he/she would have to get himself/herself registered in the nearest CGHS city for availing of hospitalization facilities. In such cases, the reimbursement claims would be processed by the Additional Directors, CGHS of the concerned city. For those opting for medical facilities under the CS (MA) Rules, the scrutiny of the claims would have to be done by the parent office as in the case of serving employees and the payment would also have to be made by them. The list of AMAs to be appointed under CS (MA) Rules would be decided Ministry/Department-wise as provided under the rules. The beneficiaries of the CS (MA) Rules, 1944 would be entitled to avail of hospitalization facilities as provided under these rules.

The Departments of Pension and Pensioners' Welfare are requested to take further necessary action in the matter accordingly."

11. In the written statement, it has been specifically mentioned by the respondents that as per the provisions contained in the Rules, the pensioners who are not residing in the areas covered by the CGHS, are entitled to medical allowance at the rate of Rs. 100/- per month; meaning thereby that the petitioner had to perforce opt fixed medical allowance as the area where he was residing was not covered by the CGHS. As per text of M.H. &



F.W.O.M. No. S-14025/4/96 M.S dated June 05, 1998, reproduced above, in order to avoid any hardship regarding availing of medical facilities by the pensioners in their old age, the Central Government decided to extend the implementation of the Rules to its pensioners residing in non CGHS areas as recommended by the Pay Commission. However, the responsibility of administering the Rules has been left to the respective Ministries/Departments as in the case of serving employees covered under the Rules. For those opting for medical facilities i.e. fixed medical allowance of Rs. 100/ under the Rules, as is in the case of the petitioner, the scrutiny of the claims for medical reimbursement is to be done by the parent office as in the case of serving employees and the payment would also have to be made by them. It has also been clearly mentioned in the above-quoted text that the beneficiaries of the Rules would be entitled to avail of hospitalization facilities as provided under these rules.”

7. Through SLP (Civil) No. 27589 of 2008, the Union of India challenged the judgment in **Mohinder Singh's** case (supra) before the Supreme Court which SLP, along with other similar SLP's, was dismissed by the Supreme Court on 03.04.2012. An application seeking review of the dismissal of the afore referred SLP was then preferred by the Union of India which was also dismissed by the Supreme Court on 30.10.2013 both on the ground of delay and on merits.

8. The issue which stood settled by the judgment of the Division Bench in **Mohinder Singh's** case (supra) again came up for consideration before another Division Bench of this Court in a bunch of petitions in which the lead case was **Union of India and others Vs. Mohan Lal Gupta and another**. After relying upon the law laid down in **Mohinder Singh's** case (supra), the Division Bench also decided **Mohan Lal Gupta's** case in favour



of the retired employees. Accepting their claim for the grant of medical reimbursement the Division Bench held as follows:-

“6. We are thus of the opinion that given the judicial finality accorded in an identical petition which is not even remotely deviant from the present one, there is no reason for us not to take a similar view. The judgment relied upon by the learned counsel for the petitioners does not in any way enhance their case. It is pertinent to mention here that we are dealing with the cases of persons who have retired and are in dire need of medical attention in their old age. It is also an accepted fact by the petitioners themselves that CGHS facilities are not available in most of the areas where the respondents reside including an important town like Ambala.”

9. Through the judgment in **Mohan Lal Gupta’s** case (supra) 10 cases had been decided. One of the 10 cases was CWP No.871 of 2018 – **Accountant General (A&E), Punjab Vs. Central Administrative Tribunal, Chandigarh and M.R. Gupta**. The Comptroller and Auditor General of India filed an SLP before the Supreme Court being SLP(C) Diary No.24977 of 2018 – **Comptroller and Auditor General of India Vs. M.R. Gupta** to challenge therein the judgment of Division Bench of this Court in **Mohan Lal Gupta’s** case (supra) which SLP was dismissed by the Supreme Court on 06.08.2018 through the following order:-

“Delay condoned.

We are not inclined to interfere with the matter. The special leave petition is, accordingly, dismissed.

Pending application, if any, shall stand dismissed.

We regretfully note that the matter has unnecessarily travelled to this Court. The kind of claims involved should not have been rejected and in no view of the matter should have been contested up to Supreme Court. Let some good sense prevail in to litigation policy. We are not happy the way in



which frivolous kind of petitions are filed in this Court. Let a copy of this order be sent to the Comptroller & Auditor General of India for taking appropriate action as to litigation policy.”

10. Learned counsel for the Union of India has not been able to distinguish the applicability to the facts of the present case, the law laid down by the afore referred two Division Benches of this Court in **Mohinder Singh’s** case (supra) and **Mohan Lal Gupta’s** case (supra), which judgments have also been approved by the Supreme Court.

11. In the light of the afore discussion, we find no reason to interfere with the impugned judgment of the Tribunal especially when it is not disputed that all the respondents in these petitions have already received medical reimbursement in terms of their claims which were the subject matter of their petitions. Resultantly, CWP-7911-2021, CWP-1182-2020, CWP-10770-2021, CWP-1771-2021, CWP-5963-2021, CWP-5944-2021, CWP-2894-2020, CWP-6989-2020 and CWP-7963-2021 are dismissed.

12. All pending miscellaneous application(s) also stand disposed of.

(DEEPAK SIBAL)
JUDGE

(DEEPAK MANCHANDA)
JUDGE

October 16, 2024
Nisha Yadav

Whether reasoned/speaking?	Yes/No
Whether reportable?	Yes/No