



2024:DHC:8333-DB



\$~5

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

Date of decision: 25.10.2024

+ W.P.(C) 1548/2022
EX HC GD BANSHI DHARPetitioner
Through: Mr.O.P. Agarwal, Adv.

versus

UNION OF INDIA AND OTHERSRespondents
Through: Mr.Talish Ray, Ms.Vasudha
Priyanshi and Ms.Divita, Advs.
with Mr.Ajay Pal, AC/Law
CRPF

CORAM:
HON'BLE MR. JUSTICE NAVIN CHAWLA
HON'BLE MS. JUSTICE SHALINDER KAUR

NAVIN CHAWLA, J. (ORAL)

1. This petition has been filed by the petitioner, praying for a direction to the respondents to pay the Fixed Medical Allowance to the petitioner for the period from 01.08.1998 to 31.03.2019, and for setting aside the Order dated 14.03.2020, by which the earlier sanction of the Fixed Medical Allowance, granted in favour of the petitioner, was cancelled.

2. This Court, on 13.09.2024, passed a detailed order which reads as under:

“1. The short grievance of the petitioner, who



has superannuated from the Central Reserve Police Force (CRPF), is that after he had sought voluntary retirement from service on 31.07.1998, he was during the period between 01.08.1998 to 31.03.2019 neither in a position to avail of medical facilities under the Central Government Health Scheme (CGHS), there being no CGHS centre near his place of residence nor was he granted the Fixed Medical Allowance (FMA) in terms of the recommendations of the Central Pay Commission.

2. The petition is sought to be opposed by the respondents who urge that it was for the petitioner to approach them at the time of his release from service with a request that he should be granted FMA as no CGHS facilities were available near his place of residence. She, therefore, contends when it is the petitioner, who is at fault for not submitting his opinion at the relevant time, he cannot now be granted FMA for the period which has already lapsed. Her plea being that it cannot be ascertained at this stage whether the petitioner had availed of CGHS facilities during the aforesaid period.

3. She further submits that immediately upon the petitioner submitting an option for availing FMA instead of CGHS, the respondents accepted his request and accordingly, he is drawing FMA w.e.f. 01.04.2019. She, therefore, prays that the writ petition be dismissed.

4. In response, learned counsel for the petitioner submits that it was the for the respondents to inform the petitioner at the time of his release from service that he was required to submit any option form for availing FMA. He, however, contends that the petitioner was never issued any CGHS card and thus it is evident that he having never availed of CGHS facilities was entitled to receive FMA. Furthermore, this fact can be easily verified from the record. He, therefore, prays that the writ petition be allowed.



5. *Having considered the submissions of learned counsel for the parties, we are of the view, that the petitioner is correct in urging that it was for the respondents to inform him at the time of his voluntary retirement from service that he could exercise one of the two available options and was required to submit an option form, if he wanted to avail of FMA. Further, we find that the respondents do not deny that no such information was ever given to the petitioner about the requirement to submit an option form if he wanted to opt for FMA. In these circumstance, there is no reason for us to disbelieve the petitioner's plea that he never availed of CGHS facilities and is therefore, entitled to FMA. However, before any directions are issued for grant of, any arrears the petitioner towards FMA for the aforesaid period between 01.08.1998 to 31.03.2019, it would be necessary to verify as to whether he had ever availed of any CGHS facilities during this period. In our opinion, this position can be easily verified from the CGHS records by ascertaining as to whether any CGHS card was ever issued to the petitioner. The respondents are therefore, directed to verify whether the petitioner was issued any CGHS card during the aforesaid period.*

6. *Learned counsel for the respondents prays for and is granted six weeks' time to revert with information in this regard.*

7. *List on 25.10.2024."*

3. In answer to the query of this Court, the learned counsel for the respondents has, today, handed over the Instructions dated 17.10.2024 received by her from the Office of the Inspector General of Police, Northern Sector, CRPF. The relevant portion of which reads as under:

"2. The subject matter was listed for hearing on 13/09/2024 and adjourned for 25/10/2024. In this connection, the Commandant 112 Bn, CRPF vide their office



2024:DHC:8333-DB



Signal No.P.III.1/2024.112.EC.IV dated 01/10/2024 has intimated to this office that "After checking the service book and pension file of the petitioner, it is found that option certificate is not enclosed regarding CGHS Card and regular Medical allowance in the service book and pension file of the Petitioner."

4. From the above, it appears that the petitioner had not submitted any option certificate for the Central Government Health Scheme (in short, 'CGHS') card or the regular Fixed Medical Allowance. It appears that, therefore, the petitioner was neither issued a CGHS card nor was he paid the Fixed Medical Allowance for the period in question.
5. Having considered the entirety of facts, we direct the respondents to, therefore, release the Fixed Medical Allowance for the abovementioned period to the petitioner. However, if at a later stage, it is discovered by the respondents that for the period in question, the petitioner did indeed have a CGHS card or had availed of the CGHS facility, it shall be open to the respondents to seek recovery of any amount paid to the petitioner pursuant to this Order.
6. The petition is disposed of in the above terms.

NAVIN CHAWLA, J

SHALINDER KAUR, J

OCTOBER 25, 2024/ns/DG

Click here to check corrigendum, if any

Signature Not Verified

Digitally Signed
By: SUNIL
Signing Date: 28.10.2024
18:13:55

W.P.(C) 1548/2022

Page 4 of 4