

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 5068 OF 2021

Shri Parshuram Shankar Motiwale]
Age 48 years, Occ. Service,]
R/o. Near Shri Ram Bekari, 448,]
South Sadar Bazar Lashkar, Solapur.] ... Petitioner

Versus

1. The Registrar,]
District Court, Solapur at Solapur.]
2. The Ld. District Judge,]
Solapur at Solapur.]
On its Administrative Side.]
3. The State of Maharashtra.] ... Respondents

Mr. I. M. Khairdi for Petitioner.

Mr. R.P. Kadam, 'B' Panel Counsel, A.G.P. for Respondent Nos.1 & 3-State.

Mr. Aumkar Joshi (Through V.C.) for Respondent No.2.

Coram : M. S. Karnik &
Ajit B. Kadethankar, JJ.

Date : 26th November 2025.

ORAL JUDGMENT (Per : M. S. Karnik, J.)

1. The challenge in this Petition under Article 226 of the Constitution of India is to the communication dated 14th June 2021 issued by the Respondent No.1-Registrar, District Court, Solapur. The Petitioner is seeking reimbursement of the medical claim in respect of the medical expenses of his mother as per the claim dated 13th January 2021.

2. The facts of the case in brief are :

2.1 That the Petitioner was working as Senior Clerk in the Court of Judicial Magistrate First Class, Pandharpur, District Solapur, when reimbursement was sought. Presently, he is working as Assistant Superintendent. The Petitioner is looking after his mother, who is presently 75 years of age. The Petitioner's mother was a Class-IV employee, working as Kaksha Sevika in Government Hospital. Upon her retirement, she was getting pension amount of Rs.13,583/- per month. The Petitioner's mother was hospitalized on 5th December 2020. She was operated for heart related ailment. The Petitioner's mother was discharged on 8th December 2020. The Petitioner is the only son and the only male member in the family. The Petitioner bore all the medical expenses. The Petitioner's case is that his mother is solely dependent on him for every aspect of her life including physical, mental and monetary assistance.

3. The Petitioner, by an Application dated 13th January 2021 applied for reimbursement of medical expenses of Rs.2,55,573/-, made by him, for medical treatment of his mother, complete in all aspects, to which he is entitled. The Petitioner brought to the notice of the Respondent No.2 that his mother has retired from Government service and is drawing a monthly pension of Rs. 13,583/-. The proposal seeking reimbursement was cleared by Civil Hospital and vide letter dated 5th March 2021 was forwarded by the learned Judicial Magistrate First Class, Pandharpur to the learned Principal District Judge, Solapur. The proposal seeking reimbursement was rejected by the impugned Order dated 14th June 2021 on the basis of Government Resolution (G.R.) dated 2nd August 2019, the reason being that the mother of Petitioner is getting pension more than Rs.9,000/- per month.

4. Learned counsel for the Petitioner in support of his submissions relied upon the decision of the Hon'ble Supreme Court in the case of *State of Madhya Pradesh & Ors. Vs. M.P Ojha & Anr.*¹. Reliance is also placed on the decision of this Court in *Anil Dattatraya Kulkarni V/s. The State of Maharashtra & Anr.*²

5. On the other hand, learned counsel for the Respondent Nos.1 & 2 invited our attention to the Affidavit-in-Reply filed on their behalf. It is

1 (1998) 2 SCC 554

2 (2014) 1 Mah.L.J. 667 (Bom)

submitted that the G.R., which permits the reimbursement of the claim, does not cover the case of the Petitioner as the Petitioner's mother cannot be said to be wholly dependent on him, as she is in receipt of the monthly pension of Rs. 13,583/-.

6. Learned A.G.P. appearing for the Respondent No.3 argued in support of G.R.. It is submitted that the stand of the Respondent Nos.1 & 2 in the Affidavit-in-Reply is justified, as the same is in consonance with the G.R., which prescribes the entitlement.

7. We have heard learned counsel.

8. There is no dispute that the aforesaid G.R. prescribes that if the dependent is receiving a monthly pension of more than Rs.9,000/-, then it cannot be said that the person is wholly dependent on the Government servant making the claim for reimbursement. If the G.R. is to be read literally, then the contention of the Respondents that the Petitioner is not entitled to the claim has to be accepted as correct.

9. The Affidavit-in-Reply has been filed by the Respondent Nos.1 & 2. The Affidavit-in-Reply records the stand of the Respondents. Paragraph Nos.2 to 5 of the said Affidavit read as under :-

“2. I say and submit that the Petitioner is actually claiming reimbursement of Rs. 2,55,573/- incurred towards medical treatment of his mother which was rejected vide communication dated 14.06.2021 (At Annexure C of the

Petition) issued by Respondent No.1. I submit that, considering the Government Resolution dated 02.08.2019 (At Annexure D of the Petition) issued by Public Health Department, Government of Maharashtra the claim dated 13.01.2021 (At Annexure A (Colly) of the Writ Petition) of the Petitioner for reimbursement towards medical expenses of his mother came to be rejected.

3. I say and submit that mother of Petitioner was serving as Chamber maid in Chhatrapati Shivaji Maharaj General Hospital, Solapur (hereinafter referred to as 'the Hospital') and she is retired from services. I further say that mother of Petitioner is receiving Basic Pension of Rs.13,583/-, D.A. amount Rs.2310/- and the mother has commuted the portion of the Pension in lumpsum payment for which CVP monthly is deducted of Rs.2114/- as per the statement of Pension annexed by Petitioner to the Petition (At Page No. 36). I submit that by virtue of Government Resolution dated 02.08.2019, if Mother or Father of Government servant gets pension or income from any other source or income in addition to pension, then in all such cases, while taking treatment if the total income by all sources of such mother or father is Rs.9000/-, within the limits of financial gain (i.e. Rs. 9000/- plus dearness allowance admissible on the date of commencement of treatment thereon) of a retired State Government employee getting so much basic pension, then they will be considered as dependent on State Government employee for reimbursement of medical expenses.

4. I further submit that on perusal of the above Government

Resolution it is apparent that, mother of the Petitioner is receiving Basic Pension more than Rs.9000/- and so she cannot be said to be dependent on the Petitioner. I submit that considering the Government Resolution dated 02.08.2019, the medical reimbursement bill as submitted by the Petitioner has rightly been rejected as the mother of the Petitioner is getting Pension more than Rs.9000/-.

5. I submit that the medical reimbursement bill can be allowed only after considering whether employee has submitted Application/ bill within the prescribed limitation, whether he/she has complied with concerned Government Resolution, whether Mother/Father gets pension of Rs.9000/- or more.”

10. However, the question in the facts and circumstances of the present case is whether the Petitioner’s mother can be said to be wholly dependent on the Petitioner, which aspect assumes relevance, as in our opinion, a pragmatic and realistic view has to be taken while deciding whether to grant relief in favour of the Petitioner or not. The outer limit prescribed by the G.R. is Rs.9,000/-.

11. Learned counsel for the Respondents, by pointing out the Sevarth Pension Report / Chart, which the Petitioner has annexed to the Petition, submits that the Petitioner is in receipt of Rs.13,779/- per month as pension. Moreover, it is pointed out that from the pensionary amount, that the amount of Rs.2,114/- is deducted towards the commuted value

of pension. It is therefore submitted that the Petitioner's mother is in a good financial position to maintain herself and hence, cannot be said to be wholly dependent on the Petitioner.

12. The question whether the Petitioner is entitled to medical reimbursement of a claim made by his dependent, who is in receipt of pension, will have to be decided on the touchstone of the facts and circumstances of every individual case, keeping in mind the object for which the G.R. provides an outer limit of Rs.9,000/-, as a monthly pension.

13. To decide this question, we seek guidance from the decision of the Hon'ble Supreme Court in *State of Madhya Pradesh & Ors. Vs. M.P. Ojha & Anr.* (supra), wherein Their Lordships were considering the provisions of the Madhya Pradesh Civil Services (Medical Attendance) Rules, 1958. The Hon'ble Supreme Court dealt with the definition of "family" under the Fundamental Rule 9(32) in paragraph No.13, which is quoted below for ready reference.

13. 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 dependent" 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 [sic SR2(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 Traveling expenses.” (Emphasis supplied)

14. We may also refer with profit, a decision of this Court in ***Anil Dattatraya Kulkarni V/s. The State of Maharashtra & Anr.*** (supra). Relying on the decision of the Hon’ble Supreme Court in ***State of Madhya Pradesh & Ors. Vs. M.P. Ojha & Anr.*** (supra), this Court in the context of what is meant by the expression “wholly dependent” within the meaning of the Maharashtra Civil Services (Medical Attendance) Rules, 1961, has, in the similar fact circumstances observed in paragraph Nos.15 to 17 as under :

“15. There is no substance in the said submission. The said Clause (Seven) obviously excludes those parents or divorced sister whose income is above Rs 3500/-. The intention of the legislature obviously is to exclude such parents, sister who have sufficient income to look after themselves. Therefore, it cannot be said that Clause (Seven) is ultra vires to Clause (Three) of sub-rule (3) of Rule 2. However, in our view, the said Clause (Seven) has to be interpreted in the context of the purpose for which Clause (3) of sub-rule (3) of Rule 2 was framed and the purposive interpretation

*has to be given to the said provision. In a similar case in **State of M.P and Others vs. M.P Ojha and another**, the Apex Court had an occasion to consider the analogous Rules which were framed by the State of Madhya Pradesh. In the said case, the Government servant's father was 70 years of age and was sick. The son had to look after him in his old age. He was getting pension of Rs 414/- per month. The son had to take his father to Bombay for treatment for his serious ailment after taking permission from the competent authority. The application made by the son for medical reimbursement was rejected. The Petitioner moved the Madhya Pradesh Administrative Tribunal which held that father of the Government Servant was wholly dependent on his son and the son was entitled to reimbursement of medical expenses incurred on the treatment of his father under the relevant M.P Civil Services (Medical Attendance) Rules, 1958. The said Rules are more or less identical to the Rules framed by the State of Maharashtra. The Apex Court in the said case interpreted the expression "wholly dependent".*

The Apex Court observed that flexible approach had to be adopted in interpreting and applying the Rules in a case.

*16. Punjab & Haryana High Court in **Nand Rani, Principal Govt. Sr.... vs. The State of Punjab and Ors.** has followed the ratio of the Judgment of the Apex Court in **M.P Ojha's** case (supra). The learned Single Judge (Swatanter Kumar, J. [as he then was]) observed in the said case in para 9 and 10 as under:-*

"9. The importance of public health in a democratic society was accepted by the Hon'ble Apex Court in the case of State of Punjab and Ors. v. Ram Lubhaya Bagga, etc. etc. J.T. 1998(2) SC 136 where the Court accepted protection to

health to include care for health and being fully protected under Article 21 of the Constitution of India which casts an obligation upon the State to provide such protection under Article 47 of the Constitution of India and held as under:-

"The right of a citizen to live under Article 21 casts obligation on the State. This obligation is further reinforced under Article 47, it is for the State to secure health to its citizen as its primary duty. No doubt Government is rendering this obligation by opening Government hospitals and health centres, but in order to make it meaningful, it has to be within the reach of its people, as far as possible, reduce the queue of waiting lists, and it has to provide all facilities for which an employee looks for at another hospital. Since it is one of the most sacrosanct and valuable rights of a citizen and equally sacrosanct sacred obligation of the State, every citizen of this welfare State looks towards the State for it to perform its this obligation with top priority including by way of allocation of sufficient funds. This in turn will not only secure the right of its citizen to the best of their satisfaction but in turn will benefit the State in achieving its social, political and economical goal. For every return there has to be investment, investment needs resources and finances. So even to protect this sacrosanct right finances are an inherent requirement. Harnessing such resources needs top priority."

10. "

*Similar view has been taken by Delhi High Court in **Union of India (Uoi) vs. Smt. Shyama Malhotra and Anr.** decided on 7th September, 2007. In the said case, the words "mainly dependent" mentioned in CGHS Rules were interpreted by the Delhi High*

Court. In this context, Delhi High Court has observed in paras 13 and 14 as under:-

"13. A reading of the above clause shows that parents who are 'mainly dependent' and residing with the Government servant concerned are treated as 'family' for the purpose of the CGHS. The term 'mainly dependent' however is not defined and elaborated upon. The second part of Clause 26(1) incorporates a deeming clause and parents, sisters, widowed sisters, widowed daughters, minor brother and children are deemed to be dependent on the Government servant, if they are residing with the Government servant and their income from all sources including pension is less than Rs. 1500/- per month. A deeming provision however will not curtail the scope and ambit of the term 'mainly dependent' in the first part of Clause 26(1). Scope and object of a deeming provision, is to expand and bring within the ambit of the main provision, that which may not form part of the main provision. 'When a statute gives a definition and then adds that certain things shall be 'deemed' to be covered by the definition, it matters not whether without that addition the definition would have covered them or not' (as per Lord President Cooper in Ferguson V. McMillan 1954 S.L.T. 109). It is difficult to hold that the deeming part of Clause 26 has the effect of restricting or curtailing the natural and general meaning of the term 'mainly dependent' as we commonly understand in a reasonable manner.

14 The word 'mainly' has been defined in Shorter Oxford Dictionary as 'for most part, chiefly, principally'. The said common and general meaning of the word 'mainly' has been accepted by the Supreme Court in Swarnlata v. Union of India

reported in MANU/SC/0050/1979 : (1979)ILLJ273SC . A Division of this Court in Govind Dass and Ors. v. Kuldeep Singh reported in MANU/DE/0045/1971 : AIR1971Delhi151 , has held that the word "dependent" is not restricted to mere financial dependency but comprehensive enough to include persons who are dependent on the landlord for residential accommodation for the purpose of Section 14(1)(e) of the Delhi Rent Control Act, 1958. It was observed as under:

...The term must be construed as meaning somebody not wholly independent or self-supporting and in a position to set up separate residence. Dependence may not in all circumstances be entirely a matter of finance and.... To our mind this interpretation, if accepted, would tend to restrict the meaning of the word "dependant" to a person being financially dependant. In the socio-religious structure of Hindu society it is common for all the members of a family of brothers to live together while some men folk in the family may go out of town to earn a livelihood and even remit their earnings to the family. One cannot shut one's eyes to this structure of our society and so to give a restricted meaning to the word "dependant" would be to provide a definition of this word which the legislature has advisedly chosen not to do so. ..."

17. In our view, the Apex Court, Punjab & Haryana High Court and Delhi High Court have, therefore, given a purposive interpretation to the said words "wholly dependent" and allowed the application for medical reimbursement. Ratio of the said judgments squarely applies to the facts of the present case. The contention of the learned Government Pleader appearing on behalf of the State,

therefore, cannot be accepted. The Petitioner's mother was 85 years old. She was both, physically and financially dependent on him. The said pension was wholly inadequate to meet her medical expenses. It has to be borne in mind that purpose of incorporating the said Clause (Seven) is to ensure that those parents or divorced sister who are physically fit and financially self-sufficient should not be allowed to take advantage of the fact that they are residing with the Government Servant and under that pretext the Government Servant should not be allowed to claim reimbursement of medical expenses. In this case, in our view, the Respondents erred in rejecting the application made by the Petitioner for medical reimbursement."

15. The aforesaid decisions are helpful in rendering a decision in this case. In the present case, the Petitioner's mother is 75 years of age. There is no dispute that the Petitioner's mother is residing with him. The Petitioner is the only son and he is looking after his mother. The Petitioner's mother is in receipt of pension of Rs.13,583/-. The limit prescribed by the G.R. is Rs.9,000/- for being considered as wholly dependent for the purpose of entitlement to the medical reimbursement. There is further no dispute that the Petitioner has incurred a sum of Rs. 2,55,573.25/- towards the medical expenses of his mother who suffered a heart ailment and had to be operated.

16. The benevolent object in enacting the Maharashtra Civil Services (Medical Attendant) Rules, 1961, has to be taken kept in mind. A

reading of the Rules and the G.R. demonstrates that, the intent is to provide solace to the retired employees when they make a claim for medical reimbursement which should be commensurate with the pension received. To expect a retired employee receiving a meagre pension but incurring a comparatively substantial amount towards medical expenses, to be a person not wholly dependent, would be a travesty of justice.

Although the pension drawn by the Petitioner's mother exceeds Rs.9,000/-, it is meagre and insufficient to meet her medical expenses, which amount to Rs.2,55,573.25/-. The purpose underlying the G.R. dated 2nd August 2019 is to ensure that the parent(s) of Government employees who receive a pension upto Rs.9,000/-, and are therefore unable to bear their medical expenses, are afforded adequate support by enabling the concerned Government Employee to claim reimbursement for such expenses. In light of this objective, the benefit of the provision ought to extend to the Petitioner as well.

17. This position stands fortified by the decision of the Hon'ble Supreme Court in the case of *State of Madhya Pradesh & Ors. Vs. M.P Ojha & Anr.* (supra), relevant paragraphs of which have been referred to earlier in this order. Their Lordships have held that a flexible approach has to be adopted in interpreting and adopting the Rules when it comes to cases of fact. In such view of the matter, a liberal approach has to be

adopted in interpreting the G.R., which will further the object and intendment of the Rules of 1961.

18. The Petition therefore deserves to be allowed.

19. The impugned Order is quashed and set aside. The claim for medical reimbursement of the Petitioner's mother be processed and the same be reimbursed within a period of three months from today.

[Ajit B. Kadethankar, J.]

[M. S. Karnik, J.]

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