

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL MUMBAI
BENCH AT AURANGABAD**

ORIGINAL APPLICATION NO. 774 OF 2017

(Subject – Medical Reimbursement)

DISTRICT : BEED

Shri Faroqui Sahed Latif s/o Mohd.)
Mumtajuddin Faroqui,)
 Age : 59 years, Occu. : Pensioner,)
 R/o Shahenshanagar, Beed,)
 Tq. and Dist. Beed.)

.. APPLICANT

V E R S U S

- 1) **The State of Maharashtra,)**
 Through : Secretary,)
 Dairy Development Department,)
 Government of Maharashtra,)
 Administrative Building, Abdul)
 Gaffar Khan Road, Warli Sea)
 Phase, Mumbai – 400 018.)
- 2) **Regional Dairy Development Officer,)**
 Aurangabad Region, Jalna Road,)
 Aurangabad.)
- 3) **The General Manager,)**
 Government Milks Scheme, Beed,))
 Tq. and Dist. Beed.)

.. RESPONDENTS

APPEARANCE : Shri Mohsin Khan, Advocate for the Applicant.

: Shri D.R. Patil, Presenting Officer for the
 Respondents.

CORAM : **B.P. PATIL, ACTING CHAIRMAN.**

RESERVED ON : **16.09.2019.**

PRONOUNCED ON : **25.09.2019.**

ORDER

1. The applicant has challenged the communication dated 24.07.2013 issued by the respondent No. 1 informing him that he is not entitled to get reimbursement of medical bill and thereby rejecting his claim for reimbursement of medical bill.

2. The applicant was serving as a Refrigeration Machine Operator with the respondents, while he was in service in the office of respondent No. 3. His father viz. Faroqui Mohamad Mumtazoddin was 79 years old and he was required to take medical treatment for heart ailment, which had ultimately resulted in a heart surgery. The said heart surgery was made in Kamalnayan Bajaj Hospital, Aurangabad on 15.09.2009. He was admitted as indoor patient for the said treatment during the period from 15.09.2009 to 01.10.2009. The applicant had incurred an amount of Rs. 1,85,904/- for the treatment of his father. Thereafter, the applicant has submitted medical bill to the respondent No. 3 and claimed reimbursement of medical expenses incurred for the treatment of his father. He has submitted the medical bill to the respondent No. 2 through the respondent No. 3 on 22.02.2010. The respondent No. 2 informed the respondent No. 3 by the letter dated 20.03.2010 to submit a detailed proposal for medical reimbursement, so as to forward it

to the respondent No. 1 for necessary sanction. On 15.07.2010, the applicant submitted representation to the respondent No. 2 through the respondent No. 3 to grant reimbursement of medical bill. The respondent No. 2 informed the respondent No. 3 by the letter dated 07.12.2010 regarding objection raised in the bill. Accordingly, the respondent No. 3 submitted the relevant information to the respondent No. 2. On 07.02.2011, the applicant informed the respondent No. 2 about his children in view of the G.R. dated 28.11.2000 and pointed out that after 11.06.1991 members of his family has not been increased. Again on 07.02.2011, the applicant submitted information and documents to the respondent No. 3. On 26.04.2011, the respondent No. 2 informed the respondent No. 3 to submit detailed proposal for medical reimbursement. On 31.10.2012, the applicant submitted an application to the respondent No. 2 through the respondent No. 3 and requested to consider his claim for reimbursement. On 10.12.2012, the respondent No. 3 informed the respondent No. 2 to forward the proposal for medical reimbursement of the applicant. On 12.02.2013, the applicant submitted representation to the respondent No. 2 and requested to grant proposal, as he had already submitted all the details. On 26.02.2013, the respondent No. 3 informed him to submit the details in requisite form and also directed to explain

as to why the delay of more than one and half year has been caused in submitting the medical bill. On 02.03.2013, the applicant pointed to the respondent No. 2 through the respondent No. 3 that he could not able to attend the duties from 28.05.2011 to 26.06.2012 as he was not keeping well due to blood pressure and hypertension and therefore, he could not able to submit the details immediately. Thereafter, the respondent No. 1 informed the respondent No. 2 by the communication dated 24.07.2013 that the applicant was not entitled for reimbursement of medical expenses incurred by him towards the heart surgery of his father, as the applicant is having four children, which is in contraventions of the provision of Rules 14 and 15 of the Maharashtra Civil Services (Medical Attendants) Rules, 1961 and the G.R. dated 28.11.2000. The said communication was received to the applicant through the office of respondent No. 3 on 26.02.2014. Thereafter, the applicant had submitted a letter to the respondent No. 3 on 28.03.2014 and requested to return the documents submitted by him for claiming medical reimbursement. It is contention of the applicant that the respondent No. 1 had not considered his case properly. The respondent No. 1 ought to have considered the fact that the G.R. dated 28.11.2000 is not applicable to his case, as the applicant had not given birth to any child after 28.11.2000.

He had four children and four children were born during the period from 29.08.1982 to 11.06.1991. It is his contention that in view of the modified Maharashtra Civil Services (Medical Attendants) Rules, 1961 and more particularly in view of the provisions of Rules 14 and 15 of the said Rules, he is entitled to get reimbursement of medical expenses, but the respondents had not considered the said aspect. Therefore, he approached this Tribunal and challenged the impugned communication dated 24.07.2013 and prayed to quash and set aside the same and to direct the respondent No. 1 to reimburse the medical expenses incurred by him.

3. Respondent Nos. 1 to 3 have resisted the contentions of the applicant by filing their affidavit in reply. They have not denied the fact that the father of the applicant had undergone heart surgery in Kamalnayan Bajaj Hospital Aurangabad on 15.09.2009 and he was admitted in the hospital as indoor patient during the period from 15.09.2009 to 01.10.2009 and that time the applicant was serving with them. They have no dispute regarding submission of bill for medical reimbursement by the applicant and compliance made by him from time to time. It is their contention that the applicant has claimed reimbursement of medical bill of an amount of more than Rs.

40,000/- and the claim for reimbursement of medical bill of more than Rs. 40,000/- has to be sanctioned by the State i.e. by the respondent No. 1 as per the provisions of relevant rules. They have admitted the fact that the Government issued the G.R. dated 28.11.2000 and revised the earlier policy in respect of sanction of medical claim to the Government servants and the same is applicable to the applicant also. It is their contention that the applicant submitted information about his children born during the period from 29.08.1982 to 11.06.1991. It is their contention that in view of the provisions of Rule 14 and 15 of the Maharashtra Civil Services (Medical Attendants) Rules, 1961, the applicant is not entitled for reimbursement of medical bill, as he is having four children and as he has not submitted family planning certificate as per his letter dated 30.10.2009 and therefore, his claim has been rejected by the respondent No. 1. It is their contention that there is no illegality in the impugned communication dated 24.07.2013 issued by the respondent No. 1, as the said communication is in accordance with the provisions of Rules 14 and 15 of the Maharashtra Civil Services (Medical Attendants) Rules, 1961. It is their contention that there is no illegality in the impugned order. Therefore, they have prayed to dismiss the present Original Application.

4. I have heard Shri Mohsin Khan, learned Advocate for the applicant and Shri D.R. Patil, learned Presenting Officer for the respondents. I have perused the documents placed on record by both the parties.

5. Admittedly, the applicant was serving as Refrigeration Machine Operator on the establishment of respondent No. 3. Admittedly, Shri Faroqui Mohamad Mumtazoddin was father of the applicant. His father was suffering from heart decease and therefore, he had undergone heart surgery in Kamalnayan Bajaj Hospital, Aurangabad on 15.09.2009 and for that purpose, he was admitted in the hospital as indoor patient from 15.09.2009 to 01.10.2009. Admittedly, the applicant had incurred expenses of Rs. 1,85,904/- for treatment of his father. Admittedly, the applicant submitted the application for reimbursement of medical expenses incurred by him with the respondent No. 3. The respondent No. 3 forwarded the same to the respondent No. 2. The respondent No. 2 has raised certain queries and objections from time to time. The applicant had complied with the objection raised by the respondents and thereafter, the respondent No. 3 forwarded the proposal to the respondent No. 2. Admittedly, the respondent No. 2 forwarded the said proposal to the respondent No. 1, as the amount of medical

reimbursement bill was more than Rs. 40,000/-/. The respondent No. 1 rejected the claim of the applicant in view of the provisions of Rules 14 and 15 of the Maharashtra Civil Services (Medical Attendants) Rules, 1961 and informed the applicant by the communication dated 24.07.2013. Admittedly, the applicant had four children born during the period from 29.08.1982 to 11.06.1991. Admittedly, the applicant had not submitted the family planning certificate to the respondent No. 3 along with his claim.

6. Learned Advocate for the applicant has submitted that the father of the applicant was hospitalized during the period from 15.09.2009 to 01.10.2009 and he had undergone heart surgery in Kamalnayan Bajaj Hospital, Aurangabad on 15.09.2009. He has submitted that the applicant has incurred amount of Rs. 1,85,904/- for the treatment of his father and therefore he had raised claim for reimbursement of medical expenses incurred by him. He has submitted that the applicant has complied with all the requirements and the objections raised by the respondent Nos. 2 and 3 from time to time. He has submitted that the applicant has submitted information regarding his family and stated that the members in his family have not been incurred after 11.06.1991 and the children born to

him were prior to 11.06.1991. Therefore, he is eligible to get reimbursement of medical expenses in view of the provisions of Maharashtra Civil Services (Medical Attendants) Rules, 1961. He has submitted that in view of the provisions of Rules 14 and 15 of the said Rules, the applicant is entitled to get the reimbursement of medical expenses, but the respondent No. 1 had not considered the said aspect and wrongly rejected his claim by the impugned communication dated 24.07.2013. Therefore, he has prayed to quash and set aside the impugned communication and to direct the respondent No. 1 to 3 to reimburse the medial expenses incurred by the applicant for the treatment of his father by allowing the present Original Application.

7. Learned Presenting Officer has submitted that the Government made rules regarding the reimbursement of medical expenses incurred by the Government employees and framed the Maharashtra Civil Services (Medical Attendants) Rules, 1961. Rule 14 and 15 of the said Rules, it has been mentioned that the Government employee has to maintain his family up to three living children and there should be no increase in the family members thereafter. He has submitted that the said rules have been amended in the year 2000 by the G.R. dated 28.11.2000

and the Rules 14 and 15 of the said rules have been amended accordingly. He has submitted that the amended rules came in to force w.e.f. 01.05.2001. He has argued that the applicant entered in the Government service on 12.12.1979 and therefore, the earlier rules of the year 1961 i.e. prior to amendment of 2001 were applicable to him. He has argued that the respondent No. 1 after considering the rules 14 and 15 of the Maharashtra Civil Services (Medical Attendants) Rules, 1961, issued the impugned order. He has submitted that the applicant conceived four children after joining the service and therefore, in view of the Rule 14, he is not entitled to get reimbursement of medical bill in view of the provisions of Maharashtra Civil Services (Medical Attendants) Rules, 1961. Not only this, but he has not produced the certificate as required under rule 15 of the Maharashtra Civil Services (Medical Attendants) Rules, 1961 regarding family planning and therefore, on that ground also, he is not entitled to claim the reimbursement of medical expenses. He has argued that the respondent No. 1 has rightly rejected the claim of the applicant. He has submitted that there is no illegality in the impugned communication and therefore, he has prayed to dismiss the present Original Application.

8. On perusal of the record, it reveals that the applicant entered in the Government service on 12.12.1979. Four children were born to him on 29.08.1982, 16.09.1986, 07.12.1989 & 11.06.1991 as per the information submitted by him, which is at paper book page No. 39. At that time, the rules of Maharashtra Civil Services (Medical Attendants) Rules, 1961 are applicable. The Rules 14 and 15 of the said Rules regarding reimbursement of medical bills are relevant and therefore, I reproduce the same :-

“१४. कुटुंबातील व्यक्तींची संख्या :-

ज्यांना ३ पेक्षा कमी मुले असतील अशा कुटुंबांनी ३ जिवंत मुलांइतके आपले कुटुंब मर्यादित ठेवलेले नसेल किंवा त्यांना ३ पेक्षा जास्त जिवंत मुले असतील अशा कुटुंबांनी आपले कुटुंब सध्या आहे एवढेच मर्यादित ठेवलेले नसेल अशा कुटुंबांना, वरील नियमानुसार शासकीय कर्मचा-यांना आणि त्यांच्या कुटुंबियांना मिळणा-या विनामूल्य वैद्यकीय उपचारासंबंधीच्या सवलती मिळणार नाहीत.

टीप :- हा नियम १५ ऑगस्ट १९६८ पासून अंमलात आला आहे.

१५. निर्बीजीकरण शस्त्रक्रिया केल्यानंतर त्या व्यक्तिला विनामूल्य वैद्यकीय उपचार अनुज्ञेय असणे :-

राज्यामध्ये कुटुंब नियोजन कार्यक्रम कार्यान्वित करण्यासाठी मंत्रिमंडळाच्या उप. समितीने दिलेल्या अहवालावर आधारित कुटुंब नियोजन कार्यक्रमाच्या संबंधातील शासनाच्या धोरणानुसार १५ ऑगस्ट १९६८ रोजी ज्यांची ३ पेक्षा अधिक मुले जिवंत आहेत अशा आईवडिलांनी (स्त्री-पुरुषांनी) त्या तारखेनंतर त्यांच्या कुटुंबातील व्यक्तींची संख्या आणखी वाढविली असली तरी सुद्धा, जी १५ ऑगस्ट १९६८ पूर्वी जन्मलेली आहेत अशा मुलांना वैद्यकीय सोयी मिळण्याच्या हक्कास कोणतीही बाधा येता कामा नये. आईवडिलांना तसेच ठरवून दिलेल्या मर्यादितपेक्षा अधिक असलेल्या जादा मुलाला विनामूल्य वैद्यकीय उपचारासंबंधीच्या सवलती मिळणार नाहीत. विनामूल्य वैद्यकीय उपचाराच्या सवलती मिळण्याचा ज्यांना हक्क होता अशा मुलांना अनुज्ञेय असलेल्या विनामूल्य वैद्यकीय उपचाराच्या सोयी मिळण्याचे चालूच राहिल. परंतु जननक्षम गटात असताना जर आईवडिलांनी (शासकीय कर्मचारी किंवा त्यांची पत्नी)

निर्वीजीकरणाची शस्त्रक्रिया करून घेतली असेल आणि अशी शस्त्रक्रिया येथे करण्यात आली त्या रुग्णालयाच्या किंवा दवाखान्याच्या प्रभारी असलेल्या सक्षम वैद्यकीय प्राधिका-याचे तशा अर्थाचे प्रमाणपत्र सादर केले असेल तर शस्त्रक्रिया केल्याच्या तारखेपासून वैद्यकीय सवलती मिळण्याचा त्यांना पुन्हा हक्क राहिल. परंतु ठरवून दिलेल्या मर्यादेहून अधिक असलेल्या मुलास/मुलांना अशा सवलती मिळणार नाहीत.”

9. Rule 14 of the Maharashtra Civil Services (Medical Attendants) Rules, 1961 came in to force w.e.f. 15.08.1968 and therefore, the said rule is attracted in the case of the applicant. The applicant has not limited his family to the extent of three children as mentioned in the Rule 14 of the Maharashtra Civil Services (Medical Attendants) Rules, 1961. Therefore, he is not eligible to get the reimbursement of medical expenses incurred by him. Not only this, but as per the Rule 15 of the said rules, the applicant has not produced the certificate regarding family planning. Therefore, the respondent No. 1 has rightly rejected the claim of the applicant regarding reimbursement of medical expenses. There is no illegality in the impugned communication dated 24.07.2013 issued by the respondent No. 1 and therefore, no interference is called for in it.

10. Learned Advocate for the applicant has placed reliance on the amended rules 14 and 15 of the Maharashtra Civil Services (Medical Attendants) Rules, 1961, which were amended in the year 2000 by the G.R. dated 28.11.2000. By this

G.R., the Rules 14 and 15 of the Maharashtra Civil Services (Medical Attendants) Rules, 1961 have been amended. The family is restricted to the extent of two children only. The said amended rules came in to force w.e.f. 01.05.2001. Therefore, the said provisions are not applicable in case of the applicant. The earlier provisions of the Maharashtra Civil Services (Medical Attendants) Rules, 1961 were more beneficial to the applicant, but the applicant has not complied with the said provisions of Rule 14 and 15 and therefore, he is not entitled to get the reimbursement of medical expenses. Hence, the applicant's claim has been rightly rejected by the respondent No. 1 by the impugned order. I do not find any illegality in the impugned order. Therefore, no question of quashing it arises. There is no merit in the present Original Application. Therefore, the O.A. deserves to be dismissed.

11. In view of the discussions in the foregoing paragraphs, the Original Application stands dismissed with no order as to costs.

PLACE : AURANGABAD.
DATE : 25.09.2019.

(B.P. PATIL)
ACTING CHAIRMAN