IN THE HIGH COURT AT CALCUTTA

CONSTITUTIONAL WRIT JURISDICTION

(CIRCUIT BENCH AT PORT BLAIR)

Present:
The Hon'ble Justice Debangsu Basak
And
The Hon'ble Justice Ajay Kumar Gupta

WP.CT NO.9 OF 2026

UNION OF INDA AND OTHERS
VS.
SHRI AMSON AND ANOTHER

For the Petitioner : Mr. Rakesh Kumar, Adv.

For the Respondents : Mr. Gopala Binnu Kumar, Adv.

Reserved on : 24.02.2026

Judgment on : 27.02.2026

Ajay Kumar Gupta, J:

1. The Judgment and order dated November 01, 2025 passed by the Central Administrative Tribunal, Kolkata Bench, Kolkata, in OA/351/1293/2023, is under challenge in this writ petition.

2. By the said impugned judgment and order, the Tribunal allowed the Original Application, *inter alia*, on the following terms:

> *".... Respondent Nos. 6 is accordingly directed to process the case of reimbursement of the medical expenses bills submitted by the applicants amounting to Rs.29,06,535/- within a period of 90 days from the date a copy of this order is received in his*

office. In the event that the authorities are satisfied from the documents that such expenditure was actually incurred for the treatment of the retired employee, payment will be made within 30 days thereafter to the legal heirs of the deceased employee along with an interest of 6% on the amount for the period from the date of filing this O.A. to the date of sanction of payment"

FACTS OF THE CASE

3. The brief facts of the instant case, essential for the purpose of its disposal, are as follows:-

a. The father of the Respondents herein (hereinafter referred to as 'retired employee') was appointed as a graduate-trained teacher under the Petitioner No.8. He superannuated from service on 31st July, 2018.

b. In October 2019, it is alleged that the retired employee developed severe pain in his head and was admitted at G.B. Pant Hospital, Port Blair. As his condition did not improve, he was referred to Apollo Hospital, Chennai, for advanced medical treatment. Upon discharge, he was advised to receive further specialised treatment at Apollo Proton Cancer Centre, Chennai.

c. On January 10, 2020, the retired employee underwent surgery for left Temporoparietal Glioblastoma, and was subsequently discharged therefrom on March 11, 2020. It is stated that a total sum of Rs. 29,06,535/- was incurred towards his medical treatment. On June 8, 2020 and again on June 15, 2020, the

mother of the Respondents herein, who was then serving as a government employee, submitted two separate applications before the Petitioner No. 7 seeking reimbursement of the medical expenses incurred for the treatment of the retired employee. By the memo dated October 12, 2020, the office of the Petitioner No. 7 informed the mother of the respondents that the reimbursement of the medical claim is not admissible as per the Central Service (Medical Attendance) Rules, 1944 and in accordance with the instruction contained in the Government of India, Ministry of Health and Family Welfare letter dated September 29, 2020. During the pendency of the application, the retired employee succumbed to death.

d. On February 28, 2021, the mother of the respondents also retired from service. Thereafter, she approached various authorities seeking reimbursement of the medical bills. The Petitioner No.7 by letter dated October 11, 2022, returned the said medical claim and advised her to pursue the matter with the parent department, i.e. The Directorate of Education. As per the advice of the Petitioner no. 7, the medical bills were submitted to the Petitioner no. 8, but the same were rejected with the remarks that the Rules of 1944 did not apply to retired employees/pensioners, relying upon OM No.5-14025/23/2013-MS.EHSS dated 29.09.2016.

e. Aggrieved by such rejection, the respondents approached the Central Administrative Tribunal by filing an Original Application. The Tribunal, after hearing the parties, allowed the OA in favour of the applicants/respondents herein and directed Petitioner no. 8 to consider and dispose of the medical bills. The Tribunal noted that although the retired employee had opted for Fixed Medical Allowance by exercising the option on 1st October 2020, on the ground that he was residing in an area not covered by CGHS facilities, the claim required consideration.

f. Being aggrieved by the said impugned order of the Tribunal, the present writ petitioners have filed this instant writ petition.

CONTENTION OF THE WRIT PETITIONERS

4. Mr. Rakesh Kumar, learned counsel appearing on behalf of the writ petitioners, vehemently contended that there exists no statutory or administrative provision permitting reimbursement of medical expenses incurred by a retired employee who did not opt for medical reimbursement under Office Memorandum No. 5-14025/23/2013-MS.EHSS dated 29.09.2016, which specifically clarifies that the Central Services (Medical Attendance) Rules, 1944, do not apply to pensioners. It was submitted that, during his lifetime, the retired employee neither opted for enrollment under CGHS nor availed of the medical facilities available to pensioners residing in non-CGHS areas. On the contrary, he consciously opted for Fixed Medical

Allowance (FMA) by submitting the prescribed option form on 1 October 2020, as he was residing in an area not covered by CGHS facilities.

5. It was further argued that the retired employee was already in receipt of Fixed Medical Allowance and, in terms of the CS (MA) Rules, 1944, a government servant can claim medical reimbursement for family members except the spouse who receives Fixed Medical Allowance (in short FMA). Learned counsel relied upon the instructions issued by the Ministry of Health and Family Welfare dated 29.09.2016, which unequivocally state that pensioners residing in non-CGHS areas may avail CGHS (both OPD and IPD) benefits only upon registration in the nearest CGHS city after payment of the prescribed subscription. Since the deceased employee never registered himself with CGHS nor availed any such facilities, the respondents, according to the petitioners, are not entitled to medical reimbursement. It was submitted that the learned Tribunal, while allowing the Original Application, directed reimbursement of ₹29,06,535/- with interest at 6% per annum, without adhering to the binding Office Memorandum dated 29.09.2016, thereby committing a manifest error of law.

CONTENTIONS ON BEHALF OF THE RESPONDENTS

6. Per contra, Mr. Binnu Kumar, learned counsel appearing on behalf of the respondents, strenuously opposed the submissions advanced

on behalf of the writ petitioners. He contended that it is an undisputed fact that the retired employee was entitled to medical facilities during his service, and such benefit cannot be denied merely on the ground of retirement. Relying upon the decision of the Hon'ble Supreme Court in ***Shiva Kant Jha v. Union of India [Writ Petition (Civil) No. 694 of 2015]*****,** learned counsel submitted that the right to medical treatment is an integral facet of Article 21 of the Constitution of India, and a retired government servant is entitled to medical benefits either during service or after retirement. It was argued that denial of reimbursement solely on the ground of non-empanelment or non-registration under CGHS is impermissible. The real test, according to learned counsel, is the factum of treatment and the genuineness of the medical expenditure incurred.

7. It was further submitted that, at the time of retirement, the retired employee was never informed by the authorities about the implications of the Office Memorandum dated 29.09.2016, nor was he furnished with any form explaining the available options for medical facilities post-retirement. Even assuming that he did not opt for CGHS benefits, reimbursement of indoor patient treatment (IPD) expenses cannot be denied where the retired employee suffered from a serious illness and incurred substantial medical expenditure.

8. Learned counsel further submitted that similarly situated pensioners have been granted medical reimbursement by this Court,

other High Courts, as well as the Hon'ble Supreme Court in several matters. Therefore, the respondents cannot be deprived. It was contended that the learned Tribunal, after relying upon binding judicial precedents, rightly concluded that retired employees are also entitled to reimbursement of medical expenses incurred for treatment.

9. Finally, learned counsel further draws the attention of this court to OM Z15025/5B/2017/DIR/CGHS/Pt dated 21st July,2017 and OM dated 13th November, 2023, which negates the OM No5-14025/23/2013-MS.EHSS dated 29.09.2016

10. Learned counsel for the respondents has placed reliance upon the following judgments to bolster his aforesaid submissions:

i. ***Union of India & Others vs. V.A.Abraham***, *WPCT No. 213 of 2004;*

ii. ***Union of India & Others vs. V.A.Abraham***, *SLP (C) No. 6805/2014 of 2014 judgement dated 5th May,2014;*

iii. ***Lt. Governor & Others vs. Neamat Khan***, *WPCT No. 169 of 2013;*

iv. ***Union of India & Others vs. S.R.Ghosal***, *WPCT No. 30 of 2022;*

v. ***Union of India & Others vs. Rah Kumar Saw***, *WPCT No. 44 of 2023;*

vi. ***Lt. Governor Union of India & others vs. Mohammed Haneef and Another***, *WPCT No. 46 of 2024;*

vii. ***Mohammed Hanif vs. Admiral (Retd) D.k Joshi & others*** *CPAN 19 of 2025, In WPCT 46 of 2024*

viii. ***Shiva Kant Jha vs. Union of India****, Writ Petition (Civil) No. 694 of 2015*

ix. ***Consumer Education and Research Centre and others vs. Union of India and others***[1].

FINDINGS AND ANALYSIS OF THIS COURT

11. This court carefully considered the rival submissions advanced on behalf of the respective parties and upon perusal of the record, we find the claim for reimbursement of medical expenses incurred for treatment of the retired employee of the A&N Administration Education Department was rejected on the ground that as per Ministry of Health and Family Welfare's OM-5-14025/23/2013-MS EHSS dated 29.9.2016 that CS (MA) Rules 1944 are not applicable to pensioners, who did not opted the options available according to the said Memo.

12. At the outset, the foundational facts are not in dispute. The father of the respondents retired from service on 31 July 2018 and, subsequent to his retirement, suffered from a serious and life-threatening ailment, namely left temporoparietal glioblastoma, for which he underwent specialised treatment and surgery at Apollo

[1] ***1995 (3) SCC 42***

Hospital/Proton Cancer Centre, Chennai. It is also undisputed that substantial medical expenditure amounting to ₹29,06,535/- was incurred for such treatment and that the claim for reimbursement was rejected by the authorities solely on the ground that the Central Services (Medical Attendance) Rules, 1944 do not apply to pensioners in view of Office Memorandum dated 29.09.2016 and that the retired employee had opted for FMA.

13. The principal issue that arises for consideration is whether the mere fact that the retired employee had opted for FMA, or had not registered himself under CGHS after retirement, disentitles his legal heirs from claiming reimbursement of medical expenses actually incurred for life-saving treatment.

14. On this issue, a catena of judgments, passed by various judicial fora, namely, the Tribunal, Hon'ble High Court and the Hon'ble Supreme Court, from time to time, have upheld the need and the right of the pensioners under CS (MA) Rules to reimbursement of medical expenses.

15. The judgments relied upon by the learned counsel for the respondents have dealt with a similar issue. Most of the Hon'ble courts held that right to health, medical aid to protect the health and vigour of a worker while in service or post retirement is a fundamental right under Article 21, read with Articles 39 (3), 41, 43 48 A and all related to Articles and fundamental human rights to

make the life of the workman meaningful and purposeful with dignity of person as such reimbursement of medical bill should not be denied and ultimately allowed the reimbursement of medical bills to the petitioner(s).

16. G.I Min. of Health & F.W. O.M No.S-14025/4/96-MS dated 05-06-1998 under heading **'Extension of CS (MA), Rules,1944, to pensioners residing in area not covered by CGHS'** is reproduced hereinbelow in verbatim.

> "*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 this Ministry that the pensioners should not be deprived of medical facilities from the Government in their old age when they require them most. 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 administrating the CS (MA) Rules for pensioners can-not 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 Pen-sioners Welfare would need to have the modalities worked out for the implementation of the rules in consultation with the Ministries/Departments prior to the measure being introduced to avoid any hardships 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 fa-cities, he/she would have to get himself/herself registered in the near-rif CGHS city for availing of hospitalization facilities. In such cases, the reimbursement claims would be processed by the*

Additional Director, 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 Department of Pension and Pensioners' Welfare are requested to take further necessary action in the matter accordingly".

17. If we go by the aforesaid Memo, the Ministry of Health & Family Welfare clearly and explicitly decided that the pensioners should not be deprived of medical facilities from the Government in their old age when they require them most. 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 subject to certain conditions.

18. Memo dated 29.09.2016 specify the availability of medical facilities to the Central Government pensioners in two categories:

a) Pensioners residing in CGHS covered area:

b) Pensioners residing in non-CGHS area:

1. They can avail Fixed Medical Allowance (FMA) @ 500/- per month.

2. They can also avail benefits of CGHS (OPD and IPO) by registering themselves in the nearest CGHS city after making the required subscription.
3. They also have the option to avail FMA, for OPD treatment and CGHS for IPD trcatments after making the required subscriptions as per CGHS guidelines.

19. In the said Memo, it is also given responsibility to all departments/Ministries to inform their employees proceeding for retirement regarding the above options for medical facilities available to the Central Government pensioners, but no such information was given to the retired employee. The petitioners claim that the retired employee, K.R. Samson, the father of the respondents, had opted to claim fixed medical allowance by submitting the form on October 1, 2020, as he was residing in area where no CGHS Medical facilities were available. Duty cast upon the authority to inform the employee about the facilities at the time of retirement. No such obligation is foisted on the retired employee as such the petitioners cannot avoid its responsibility cast upon them.

20. Needless to reiterate that, fundamental human of right to life includes right to live the life in meaningful and purposeful manner with dignity. In a welfare state like ours the state is under obligation to provide free medical assistance to its employees especially when the hospital run by the Administration, where the petitioner was

immediately admitted after unfortunately and unexpectedly and under compelling circumstances, the patient had to take treatment from a hospital at mainland. But after getting such treatment the concerned Petitioners do not hesitate to reject the prayer for re-imbursement on guise of Memo.

21. "**may take their own decision**" in the aforesaid office memorandum does not give Administration right to take any arbitrary or whimsical decision but it must be based on sound reasonable discretion. The aforesaid clause of the Office Memorandum makes it specific by giving liberty to the Administration to take their own decision in this regard and not to sit tight over the matter in order to show an indifferent attitude towards their own employee who had served under the Administration for a considerable period of time.

22. The judgments relied upon by the respondents indicate that a retired Government employee cannot be denied the medical facilities which he was entitled to during his employment. In fact, the Apex Court in the case of ***Shiva Kant Jha (Supra)*** held that in such cases, the authorities are only bound to ensure that the claimant had actually taken treatment and the factum of treatment is supported by records duly certified by the doctors/Hospitals concerned, and a decision has to be taken by showing a humanitarian approach. In the present case, it is not the stand of the Petitioners that the claimant has not received treatment from the

mainland, or that he has not incurred the medical expenditure which he has actually sought for.

23. In ***Shiv Kant Jha (Supra)***, which was decided on April 13, 2018, Their Lordship specifically held in paragraph 13 as follows:-

> *"It is a settled legal position that the Government employee during his life time or after his retirement is entitled to get the benefit of the medical facilities and no fetters can be placed on his rights. It is acceptable to common sense, that ultimate decision as to how a patient should be treated vests only with the Doctor, who is well versed and expert both on academic qualification and experience gained. Very little scope is left to the patient or his relative to decide as to the manner in which the ailment should be treated. Speciality hospitals are established for treatment of specified ailments and services of Doctors specialized in a discipline are availed by patients only to ensure proper, required and safe treatment. Can it be said that taking treatment in speciality hospital by itself would deprive a person to claim reimbursement solely on the ground that the said hospital is not included in the Government order. The right to medical claim cannot be denied merely because the name of the hospital is not included in the Government order. The real test must be the factum of treatment. Before any medical claim is honoured, the authorities are bound to ensure as to whether the claimant had actually taken treatment and the factum of treatment is supported by records duly certified by Doctors/ Hospitals concerned. Once, it is established, the claim cannot be denied on technical grounds. Clearly, in the present case, by taking a very inhuman approach, the officials of the CGHS have*

denied the grant of medical reimbursement in full to the petitioner forcing him to approach this Court."

24. In the said Judgment, it was further held that the relevant authorities are required to be more responsive and cannot mechanically deny the medical bills, depriving an employee of his legitimate reimbursement.

25. The same principle has been reiterated consistently in a catena of decisions, including ***Union of India v. V.A. Abraham (Supra)***, ***Lt. Governor v. Neamat Khan (Supra)***, and ***Union of India v. S.R. Ghosal (Supra)***, and other judgments relied upon by the learned counsel for the respondents. These decisions uniformly recognise that pensioners form a vulnerable class and that medical reimbursement claims, particularly those arising out of serious illnesses and emergency treatment, must be considered with a humane and pragmatic approach rather than a pedantic or hyper-technical one.

26. In the present case, the Tribunal has recorded a clear finding that the medical treatment was genuine, necessary, and supported by documentary evidence. There is no allegation of fabrication, exaggeration, or lack of nexus between the treatment and the expenditure claimed. The rejection of the claim was founded solely on the applicability of the Office Memorandum dated 29.09.2016 and the option exercised for FMA. Such reasoning, in the considered

view of this Court, is legally unsustainable in light of the constitutional mandate under Article 21 and the authoritative pronouncements of the Hon'ble Supreme Court.

27. The contention of the writ petitioners that opting for FMA constitutes an absolute bar to medical reimbursement also cannot be accepted. The petitioners' contention that the respondents are not entitled for reimbursement medical bills of the retire employee on the basis of OM-5-14025/23/2013-MS EHSS dated 29.9.2016 although it was nagated by subsequent OM-Z15025/5B/2017/DIR/CGHS/Pt dated 21st July, 2017 issued by Government of India Ministry of Health and Family Welfare Department of Health & family welfare Directorate General of CGHS.

28. The OM dated 21st July, 2017 is reproduced herein below in verbatim for the sake of conveniance:-

> " Subject- Serving employees/pensioners of Union Territories are not entitled to CGHS facilities.
>
> *With reference to the above mentioned subject it has come to the notice that some CGHS cards were inadvertently issued to Pensioners of Union Territones in some cities. In this regard it is clarified that Serving employees/ pensioners of Union Territories are not entitied to CGHS facilities care must be taken to ensure that CGHS Cards are not issued to such Individuals. In such cases, where CGHS cards were issued Inadvertently the individuals concerned may be informed of the mistake and cancel such cards with a notice of one month's grace period and the balance CGHS*

subscription for the remaining years may be returned to such individuals".

29. Therefore, we are fully convinced that the respondents are entitled to reimbursement of the medical bills. It is trite law that if two plausible views are available on the issue, then the one that is suitable to the aggrieved party should be accepted.

30. Fixed Medical Allowance is intended to meet routine and minor medical expenses, and therefore, cannot be construed as a waiver of the right to reimbursement for extraordinary or specialised medical treatment, particularly in cases involving life-threatening diseases. To hold otherwise would amount to placing an unreasonable restriction on the right to health of retired employees and pensioners.

31. Thus, in the light of the above discussion and foregoing reasons, we have reached to the conclusion that there is no infirmity or palpable illegality in the impugned order passed by the Central Administrative Tribunal on November 11, 2025. Consequently, the impugned order is hereby affirmed.

32. In the result, the present writ petition being **WP.CT 9 of 2026** filed by the Petitioners is hereby **dimissed** without order as to costs.

33. Interim order, if any, stands vacated.

34. Connected applications, if any, shall also stand disposed of.

35. Urgent photostat certified copy of this Judgment, if applied for, is to be given to the parties on priority basis on compliance of all legal formalities.

(Ajay Kumar Gupta, J.)

I Agree**.**

(Debangsu Basak, J.)