

entitled to promotion even on the basis of reservation. He referred the various circular letters of the State Government providing for reservation in favour of Scheduled Castes in the matter of promotion to various posts. It was contended that all the circulars of the State Government had been adopted by the corporation *mutatis mutandis* and the corporation is bound to give promotion to the petitioner in terms of those circulars. As I have already held that the petitioner is entitled to be considered for promotion with effect from 1st March, 1994 when Shri P.K. Sharma was taken on deputation, it is not necessary for me to decide the other contentions raised by Shri Khehar.

(11) In the result, the writ petition is allowed and the impugned order dated 20th November, 1996 (Annexure PII with the writ petition) passed by the State Government appointing respondent 3 as Superintending Engineer on deputation with the corporation quashed. The corporation is directed to consider the claim of the petitioner along with the claim of any other eligible officer of the corporation, if any, for promotion to the post of Superintending Engineer with effect from 1st March, 1994. In case the petitioner is found suitable for promotion, he will be entitled to all consequential benefits that will flow from the order of promotion. The petitioner will have his costs which are assessed at Rs.5,000.

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S.C.K.

*Before H.S. Bedi, J*

RENU SAIGAL,—*Petitioner*

*versus*

THE STATE OF HARYANA & OTHERS,—*Respondents*

CWP No. 12955 OF 1997

7th July, 1998

*Punjab Services (Medical Attendance) Rules, 1940—Rls. 3 & 4—Instructions contrary to rules—Validity of such instructions—Reimbursement for treatment whether any distinction in outdoor & indoor treatment permissible under the rules.*

*Held that, a cumulative reading of the word 'treatment' alongwith the other observations clearly makes out that a government servant shall be entitled to free of charge treatment in a hospital and the exceptions, if any, with regard to Board etc. have been specifically carved*

out in the rules themselves. It will also be seen that no distinction whatsoever has been made in the Rules with regard to reimbursement of medical expenses between indoor and outdoor patients and this has been drawn under paragraph 3 *ibid*. It is, therefore, apparent that the said instructions insofar as they deny full reimbursement of medical expenses incurred on chronic diseases to an outdoor patient cannot be justified as they are contrary to the Rules. The word "chronic" has been defined in Buterworths Medical Dictionary (Second Edition) as a disease long continued. It is common knowledge that a chronic disease and more particularly a malignant one destroys not only the financial but even the emotional health of the family and takes a very heavy toll on all who come into contact with the patient. Therefore, paragraph 3 of the Government instructions insofar as they deny the benefit of full reimbursement of medical expenses incurred on account of treatment as an outdoor patient cannot be justified on the touchstone of Articles 14 & 21 of the Constitution.

(Para 6)

Anil Khetarpal, Advocate, *for the Petitioner.*

Ajay Jain, Advocate, *for the respondent.*

### JUDGMENT

*H.S. Bedi, J.*

(1) The petitioner is presently working as Senior Architect in the department of Architecture of the Haryana Government. She fell ill in June, 1996. The Post Graduate Institute of Medical Education and Research, Chandigarh (hereinafter referred to as the PGI) diagnosed her illness as Hairy Cell Leukaemia. She remained admitted in the P.G.I. for some time in July and August, 1996. The doctors in the P.G.I. prescribed a course of medicines for the petitioner and accordingly issued an Essentially Certificate (Annexure P-2) certifying that Interfron-A, a very expensive medicine, which had to be administered to her periodically was not available in the stock of the P.G.I. and had to be purchased from outside. The P.G.I. also issued a certificate (Annexure P-3) that as the petitioner's treatment was going to be a prolonged one, the cost of medication was likely to be in the range of Rs. 20,000 to Rs. 30,000 per month. The petitioner accordingly put in an application for the reimbursement of medical expenses during the period she remained admitted in the P.G.I. and also applied for some advance so that she could use the same on purchasing medicines. The said application was forwarded to respondent No. 1 by respondent No.

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2,—*vide* letter dated 13th September, 1996 (Annexure P-4) who sanctioned an advance of Rs. 20,000,—*vide* Annexure P-5 and at the same time recommended that as there were other patients undergoing similar treatment, the Government Policy with regard to reimbursement Annexure P-9 dated 11th August, 1992 to the petition needed to be revised. The petitioner thereafter represented once again requesting that another sum of Rs. 20,000 be advanced to her but no further action was taken thereon presumably on the ground that the government itself was contemplating a change in the policy Annexure P-9 with respect to outdoor patients who were suffering from chronic diseases as this policy which provided that no employee would be entitled to reimbursement of more than Rs. 6,000 per annum was unrealistic. The present writ petition has accordingly been filed impugning the said clause in the policy, Annexure P-9 and seeking a further direction that all the bills submitted by the petitioner be reimbursed.

(2) Notice of motion was issued in this case and a reply has been filed on behalf of respondent Nos. 1 to 3. It has been pleaded that the petitioner had been awarded full reimbursement of medical expenses incurred by her for the period that she remained admitted in the P.G.I., as per the provisions of the Punjab Services (Medical Attendance) Rules, 1940 (hereinafter called the Rules). It has however been pleaded that as the petitioner was suffering from a chronic disease she was entitled to not more than Rs. 6,000 per annum for her treatment as an outdoor patient as per Annexure P-9, although some substantial advance had nevertheless been given to her as a special case.

(3) Mr. Anil Kheterpal, the learned counsel appearing for the petitioner, has argued that the petitioner's case was admittedly a government hospital, the petitioner was entitled to full reimbursement for her medical expenses. In this connection, he has referred, in particular, to sub-rule (3) of Rule 2 and Rules 3 and 4 to contend that almost all the expenses incurred in a government hospital either as an indoor or as an outdoor patient were reimburseable and, as such, the respondents were not justified in refusing to make the reimbursement for the petitioner's treatment as an outdoor patient.

(4) As against this, Mr. Jain, the learned counsel appearing for the respondent—State, has argued that the government instructions, Annexure P-9, specifically limited the reimbursement of medical expenses with respect to outdoor patients to Rs. 6,000 per annum as the petitioner was suffering from a chronic disease and as held by the

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Hon'ble Supreme Court in *State of Punjab and others v. Ram Lubhaya Bagga etc.* (1), it lay within the exclusive province of the government to frame a policy with regard to the reimbursement of medical expenses keeping in view the resources at its command. He has further urged that in view of the provisions of the Rules alluded to above, it would be apparent that the petitioner was entitled to full reimbursement only if she had been admitted as an indoor patient in a government hospital.

(5) I have heard the learned counsel for the parties and have gone through the record. It will be seen that the Rules were promulgated by the Government of Punjab in view of the powers conferred by clause (b) of sub-section (2) of Section 241 of the Government of India Act, 1935, which authorised the Governor of the Province to make rules in the case of persons serving in connection with the affairs of a Province.

Admittedly, the rules therefore have statutory force. The relevant Rules as also paragraph 3 of Annexure P-9, are reproduced below;

2. In these rules, unless there is any thing repugnant to the subject or context :
3. "treatment" means the use of all medical and surgical facilities available at the hospital in which a Government servant is treated, and includes—
  - (i) the supply of all such medicines and vaccines as are in the price lists of the Medical Stores Depots and such medical comforts as are certified by the Civil Surgeon to be necessary, but no alcoholic stimulants ;
  - (ii) such special treatment including electrical treatment and X-ray examination as is certified by the Civil Surgeon to be necessary and which may be provided by the staff of the hospital ;
  - (iii) such accomodation as is ordinarily provided in the hospital and is suited to the status of the Government servant ;
  - (iv) the services of such nurses as are ordinarily employed by the hospital; but does not include diet, or treatment by specialists who are not on the staff of the hospital.

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3. A Government servant shall be entitled free of charge to

(1) J.T. 1998 (2) S.C. 136

treatment in a hospital in the place where he falls ill and, in the absence of a hospital there, in the nearest hospital.

4. (i) Where according to the rules of the hospital in which a Government servant receives treatment separate charges are made for medical, surgical and nursing treatment and for board, the charges for the former shall be defrayed by Government and the charges for board will be met by the officer himself.
- (ii) Where the hospital charge is an inclusive charge, the charge for Board shall be levied from the Government Servant under treatment at the rates noted below and the remaining hospital charges shall be regarded as the charges for medical surgical and nursing treatment.

xx	xx	xx	xx	xx
xx	xx	xx	xx	xx

**Paragraph 3 of Annexure P-9**

3. *Persons claiming reimbursement on chronic diseases will not be entitled to any other medical allowances either at fixed rate or at the rate of Rs. 100 p.m. as outdoor patient. No employee claiming reimbursement on account of outdoor treatment on chronic diseases will be entitled reimbursement of more than Rs. 500 per month. The instructions issued,—vide Government Letter No. 2/59/88-1HB-III, dated 17th July, 1992 for reimbursement of expenses incurred on the treatment of ten chronic diseases as outdoor patient may be treatment amended to this extent.*

(6) A cumulative reading of the word "treatment" alongwith the other observations mentioned above, clearly makes out that a government servant shall be entitled to free of charge treatment in a hospital and the exceptions, if any, with regard to Board etc. have been specifically carried out in the rules themselves. It will also be seen that no distinction whatsoever has been made in the Rules with regard to reimbursement of medical expenses between indoor and outdoor patients and this has been drawn under paragraph 3 *ibid*. It is, therefore, apparent that the said instructions insofar as they deny full reimbursement of medical expenses incurred on chronic diseases to an outdoor patient cannot be justified as they are contrary to the Rules. **The word "chronic" has been defined in Butterworths Medical Dictionary (Second Edition) as a disease long continued. It is common knowledge**

that a chronic disease and more particularly a malignant one destroys not only the financial but even the emotional health of the family and takes a very heavy toll on all who come into contact with the patient. To my mind, therefore, paragraph 3 of the Government Instructions Annexure P-9, insofar as they deny the benefit of full reimbursement of medical expenses incurred on account of treatment as an outdoor patient cannot be justified on the touchstone of Articles 14 and 21 of the Constitution as well as Ram Lubhaya Bagga's case (supra) therefore cannot come to the aid of the respondents.

(7) I am, therefore, of the opinion that the present petition deserves to succeed and the same is accordingly allowed. Paragraph 3 of the government instructions Annexure P-9, dated 11th August, 1992 insofar as they deny the benefit of full medical reimbursement to an outdoor patient is quashed and a direction is issued to the respondents to make full reimbursement of the medical expenses incurred by the petitioner both as an indoor and an outdoor patient within a period of one month from the date that a certified copy of this order is supplied to them. The petitioner shall also have her costs which are quantified at Rs. 1000 Dasti order

S.C.K.

*Before Jawahar Lal Gupta, J*

UCO BANK & OTHERS,—Appellants

*versus*

SANWAR MAL,—Respondent

*RSA No. 1398 of 1997*

The 8th July, 1998

*UCO Bank (Employees) Pension Regulations, 1995—Reg. 14—  
An employee rendering minimum of 10 years service entitled to  
pension—Employee having resigned—Such employee whether entitled  
to pension.*

*Held that, it is true that there is a distinction between resignation and retirement. However, in the context of the present situation where the purpose of pension is to reward an employee for the past satisfactory service rendered by him, there appears to be no rationale for denying the benefit to the respondent. The situation could be different if he was under a cloud. Supposing there was a charge sheet pending against*