

RTI REQUEST DETAILS	
Registration No. : PGCIL/R /2017/50346	Date of Receipt : 08/08/2017
Type of Receipt : Online Receipt	Language of Request : English
Name : BIPIN KUMAR BHARATI	Gender : Male
Address : 9A , DURGA HOUSING SOCIETY,MADAN COTTAGE, LAKE ROAD, TULSHET PADA, BHANDUP,, MUMBAI, Pin:400078	
State : Maharashtra	Country : India
Phone No. : Details not provided	Mobile No. : +91-7715007591
Email : kumarveeriitr@gmail.com	
Status(Rural/Urban) : Urban	Education Status : Graduate
Is Requester Below Poverty Line ? : No	Citizenship Status Indian
Amount Paid : 10)	Mode of Payment Payment Gateway
Request Pertains to :	
<p>1. Please provide guidelines for declaration of medical dependency of parents in case of an employee working with PGCIL.</p> <p>Information Sought : 2. Please provide guidelines for declaration of medical dependency of parents in case both husband & Wife working with PGCIL keeping in view that both had individually medical dependant parents before marriage.</p>	
<input type="button" value="Print"/> <input type="button" value="Save"/> <input type="button" value="Close"/>	

22/9/18

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H12

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Kerala High Court Against The Judgment In Wp(C) ... vs S.Venugopal on 12 April, 2017

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE THE CHIEF JUSTICE MR.NAVANITI PRASAD SINGH

&

THE HONOURABLE MR. JUSTICE RAJA VIJAYARAGHAVAN V

TUESDAY, THE 20TH DAY OF JUNE 2017/30TH JYAISHTA, 1939

WA.No. 1225 of 2017 () IN WP(C).29459/2014

AGAINST THE JUDGMENT IN WP(C) 29459/2014 of HIGH COURT OF KERALA
DATED 12-04-2017

APPELLANTS/PETITIONERS:

1. S.VENUGOPAL
S/O. V. SUKUMARAN NAIR, AGED 54 YEARS,
ASSISTANT GENERAL MANAGER(CNS)
AIRPORTS AUTHORITY OF INDIA
COCHIN INTERNATIONAL AIRPORT,
NEDUMBASSERY, COCHIN 683111

2. C. ANITHA
W/O. S. VENUGOPAL, AGED 47 YEARS,
ASSISTANT GENERAL MANAGER(ATC)
AIRPORTS AUTHORITY OF INDIA,
COCHIN INTERNATIONAL AIRPORT,
NEDUMBASSERY, COCHIN 683111

BY ADV. SRI.P.K.RAVISANKAR

RESPONDENTS/RESPONDENTS:

1. AIRPORTS AUTHORITY OF INDIA
REPRESENTED BY ITS EXECUTIVE DIRECTOR(HR)
RAJIV GANDHI BHAVAN, SAFDARJUNG AIRPORT,
NEW DELHI 110 003

2. EXECUTIVE DIRECTOR(HR)
AIRPORTS AUTHORITY OF INDIA,
RAJIV GANDHI BHAVAN, SAFDARJUNG AIRPORT,
NEW DELHI 110 003

3. AIRPORT DIRECTOR
AIRPORTS AUTHORITY OF INDIA
COCHIN INTERNATIONAL AIRPORT,
NEDUMBASSERY POST, ERENAKULAM 683111

R3 BY SRI.M.GOPIKRISHNAN NAMBIAR
R1-R2 BY SRI.S.SUJIN

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 20-06-2017,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

VPS

"C.R."

NAVANITI PRASAD SINGH, C.J. &
RAJA VIJAYARAGHAVAN V., J.

W.A. No.1225 OF 2017

Dated this the 20th day of June, 2017

JUDGMENT

Navaniti Prasad Singh, C.J.

1.The appellants herein were the writ petitioners in W.P.(C) No.29459 of 2014 and are aggrieved by the judgment of the learned single Judge dated 12.4.2017 passed therein.

2. We have heard the learned counsel for the appellants and for the respondents. To us, the problem appears to be simple. It centers around Clause 11 of Ext.P1 HR Corporate Communication (HRCC)No.4/2011 dated 21.1.2011. It deals with medical allowances and is quoted hereunder.

"11. Medical Allowance 11.1 OPD/Domicile Medical Treatment 11.1.1 A new scheme of medical reimbursement with annual ceiling on self certification basis for OPD/Domicile Medical Treatment to be paid on monthly basis is introduced as under:

Pay Scale	Annual Ceiling
16400-40500	Rs.30000
20600-46500	Rs.32000
24900-50500	Rs.34000
29100-54500	Rs.36000
32900-58000	Rs.38000
36600-62000	Rs.40000
43200-66000	Rs.42000
51300-73000	Rs.44000
62000-80000	Rs.45000
Chairman and Board Members	Rs.50000"

3.Equal in issue would be Clause 3(2) of the Airport Authority of India (Employees Medical Attendance and Treatment) Regulations, 2003 which reads as follows:

"In case where both husband and wife are employed in authority, they, as well as their eligible dependents may be allowed to avail of the medical concessions according to his or her status. For this purpose, a joint declaration as to who shall prefer the claim for reimbursement of medical expenses incurred or the medical attendance and treatment irrespective of wife or husband and the children shall be furnished. If declaration is not furnished, concession is to be availed by all including wife according to the status of the husband. The option given in the declaration can be changed from the next financial year as and when necessary depending on change in circumstances."

4.The appellants herein are husband and wife. They are both employed as Assistant General managers under the Airport Authority of India Limited and posted at Cochin International Airport. The question is what is the entitlement of the appellants under the head medical allowance and how it has to be worked out.

5.As we understand, the stand of the Airport authority is that where both the spouses are employed under the authority, they would have an option to nominate either of them to claim the medical allowances and upon such option being exercised, only that person would be entitled to the same. The appellants on the other hand claimed that both the appellants are employees in their independent right, there being independent master- servant relationship as between them and the Airport authorities. They have independent right to entitlements. They cannot be clubbed to deny their independent right.

6.We have heard both the counsels and we feel that there is some genuine confusion. It cannot be denied that employment is a matter of contract as between the employee and the employer. Merely because a husband and wife are both employed under the same employer, the concept and the jurisprudence of employment does not change. The employment contracts framed are independent and individual. But, at the same time, there cannot be duplication of claims. For example, the husband by nature of his employment and conditions of employment is entitled to house rent allowance. The house rent allowance is for the husband as an employee and his family. The wife, if posted at the same station and residing with her husband, cannot thus claim house rent allowance over and above her husband. The condition may be different if they are posted at different stations, or otherwise there would be duplication.

7.Now when we come to Clause 11 this is not an allowance, in the sense that whether or not expense is incurred, it is to be paid. Clause 11.1.1 would itself show that it is a medical reimbursement with annual ceiling. Therefore, it is reimbursement of actual expenses with an annual ceiling. From that we can understand is that the annual ceiling between the range of Rs.30,000/- to Rs.50,000/-, as the case may be, is available for actual expenses incurred and would include the family/dependent and obviously the spouse. But, when both the spouses are employed, can it be said that for the same expenses incurred, both the husband and wife could claim reimbursement. The answer is obviously no, in as much as duplication of reimbursement is not at all contemplated nor permissible. Thus one thing is clear that for expenses incurred, there can be only one source of reimbursement and the same cannot be claimed again by the other spouse. But there is a difference which would be clear from the illustration given herein.

8.We could do no better than illustrate the arbitrariness of Ext.P2, which restricts the claim of medical allowances/reimbursement to one of the spouses only, in case where both the spouses are under employment of the Airport authority. As also the arbitrariness of direction to recover, as contained in paragraph 2 of Ext.P2, where medical reimbursement have been independently claimed by both the spouses instead of through one only.

9.Let us consider the case of two individuals; a male employee (A) and a female employee

(B). If the two are not married, each would independently be entitled to a medical reimbursement subject to the ceiling provided independent of each other. Thus, if the ceiling be Rs.30,000/- and (A) incurs expenses of Rs.20,000/-, he would get full reimbursement of Rs.20,000. At the same time, in the same financial year (B) would similarly get reimbursement of Rs.20,000/- for medical expenses incurred by her. The sum total of the medical reimbursement received by (A) and (B), who are not married, would be a sum of Rs.40,000/-. They may be in a live-in relationship or divorced. But, the moment (A) and (B) gets into holy matrimony, they are put to disadvantage. (A) being the husband and (B) being the wife, would not have to make a declaration to claim medical benefits only on one of their accounts and in default of that option, it would be the husband's account.

10.If we refer back to the illustration, what will now happen? The maximum ceiling in one account is Rs.30,000/-. Either the wife's full medical reimbursement would be curtailed to Rs.10,000/- or the husband's medical reimbursement would be curtailed to Rs.10,000/-. Thus seen, upon holy matrimony, they would be put to serious disadvantage. This is what is arbitrary. It is for this reason we have held that medical reimbursement is an individual entitlement and by reason of matrimony parties cannot be put to disadvantage. A caveat would be necessary. Parties being entitled to independent claims there cannot be duplication of the claim, in the sense, the wife cannot claim her medical reimbursement from her account as her own independent claim and then for the same event, claim through her husband's account showing herself to be the dependent spouse. That would be duplication of claim and is impermissible. Thus, the circular to the extent to which it directs recovery of amount , when the same is claimed by both the spouses is bad to the extent indicated above. It could apply only in case of duplication of claims and not otherwise.

11.Thus, we have to hold that there cannot be any discrimination or any arbitrary application of the provisions in relation to medical allowances / reimbursement putting persons to disadvantage merely by reason of marriage.

To the extent indicated above, we modify the judgment of the learned single Judge and to the limited extent indicated above, the appeal stands allowed. Consequently, no amount should be sought to be recovered unless they are beyond individual limits or there is duplicity of claim for reimbursement.

Sd/-

NAVANITI PRASAD SINGH, CHIEF JUSTICE Sd/-

RAJA VIJAYARAGHAVAN V., JUDGE vps