104+223 CM-13319-CWP-2024 in/and
CWP-18843-2022

SWARANJIT KAUR
V/S
STATE OF PUNJAB AND OTHERS

Present: Mr. Ish Puneet Singh, Advocate, for the petitioner.

Mr. Satnam Preet Singh, Deputy Advocate General, Punjab.

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CM-13319-CWP-2024

As prayed for, the application is allowed.

Replication to the written statement filed on behalf of respondents No. 6 and 7, is taken on record.

CWP-18843-2022

In the present writ petition, the grievance being raised by the petitioner is that in respect of female employees, the definition of 'family' as envisaged under Punjab Services (Medical Attendance) Rules 1940 includes only her biological parents and not the in-laws for the grant of benefit of medical reimbursement even when the said female employee is residing in her matrimonial home with her in-laws after marriage.

Learned counsel for the petitioner submits that the Rules were framed in the year 1940 and the same have not been re-considered keeping in view the object sought to be achieved under the Rules in question.

Learned counsel for the petitioner argues that once after the marriage, the female employee is living with her in-laws, the option should be given to the female employees as to whether, they will like to extend the benefit of medical reimbursement under 1940 Rules to the biological parents or to the in-laws who are dependent upon her after her marriage.

Learned counsel for the petitioner relies upon the decision taken by the Government of India in this regard where, such options have already been extended to the female Government employees to choose either their biological parents or the in-laws who are dependent upon on a female employee for the grant of medical reimbursement.

Learned State counsel submits that it is the prerogative of the State to decide as to who will be eligible for the grant of medical reimbursement and once after due consideration, the definition of the family has been envisaged under 1940 Rules, the petitioner cannot direct the State to change the said definition to suit her and therefore, the present writ petition is liable to be dismissed.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

In order to decide the issue raised in the present petition, one has to understand as to why, 1940 Rules were promulgated. The said Rules were issued with the purpose that a family which is dependent upon an employee, should also get the medical facilities. By keeping the said purpose in mind, in case of the unmarried female employees or the divorced female employees or separated female employees, there is no problem as the biological parents have already been included in the definition of the 'family' so as to get the medical reimbursement in case, any of the member of the family envisaged under 1940 Rules is dependent upon the female Government employee. But in case of a married female employee, who is residing in her matrimonial home and the in-laws are dependent upon the said female employee whether, they can be denied the benefit especially when the State choose not to include the in-laws of the female employees in the definition of 'family'.

Once the intention and purpose to achieve under 1940 Rules is to grant the medical facility to the dependent of an employee and a female employee is residing in her matrimonial home and the in-laws are dependent upon her, benefit should have been given to such in-laws in order to achieve the purpose envisaged under 1940 Rules.

The said issue has already been considered by the Government of India and an option has been given to the female employees that they can choose either their biological parents or parents in-law, who are dependent upon the Government female employee for the grant of medical facility. This decision of the Government of India is only to achieve the purpose that the family members whether biological or in-laws, who are dependent upon the Government employee, are also extended the benefit of medical facility.

Learned State counsel has not been able to rebut the contention of the learned counsel for the petitioner that even the State of Haryana, which State was also following 1940 Rules, has given the option to female employees include the in-laws for the grant of medical facility by duly amending the definition of 'family' as envisaged under 1940 Rules.

Keeping in view the above, especially in the case of female employees, who are residing with their in-laws in their matrimonial home and the in-laws are dependent upon the said female employee, denial of the medical facility to them and rather extending the same to her biological parents, needs re-consideration at the hands of the State.

Once an option has been given by the Government of India to its female employees to either choose the biological family or the in-laws family for the grant of medical facility, the State needs to re-consider this issue so as to suitably amend the definition of family as envisaged under

1940 Rules.

Let the issue in hand be taken up for consideration and appropriate decision by the Chief Secretary, Government of Punjab in consultation with the Department of Health and Family Welfare and the decision taken by the Government of India as well as the Government of Haryana should be kept in mind and further, the basic purpose of 1940 Rules, which is to give medical facility to the dependents of an employee, should be kept in mind.

Let the said consideration be completed within a period of eight weeks and the outcome of the same be placed before this Court for consideration by way of affidavit.

Adjourned to 25.10.2024.

August 23, 2024 **(HARSIMRAN SINGH SETHI)**
harsha **JUDGE**