



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 8TH DAY OF JULY, 2024

PRESENT

THE HON'BLE MR N. V. ANJARIA, CHIEF JUSTICE

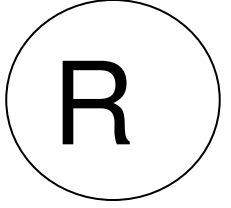
AND

THE HON'BLE MR JUSTICE K V ARAVIND

WRIT APPEAL No. 1556 OF 2023 (S-RES)

C/W

CIVIL CONTEMPT PETITION No. 1154 OF 2023



IN WRIT APPEAL No. 1556 OF 2023

BETWEEN:

1. UNION OF INDIA,
REPRESENTED BY SECRETARY,
MINISTRY OF HEALTH AND FAMILY WELFARE,
(INCORRECTLY DESCRIBED IN THE
WRIT PETITION AS PRINCIPAL SECRETARY OF
GOVERNMENT OF INDIA),
ROOM No. 348, 'A' WING,
NIRMAN BHAVAN,
NEW DELHI 110011.
2. ADDITIONAL DIRECTOR , CGHS ,
BENGALURU OFFICE OF THE AD CGHS,
3RD FLOOR, E WING,
KENDRIYA SADAN, KORAMANGALA,
BENGALURU 560034.
3. ADDITIONAL DY. DIRECTOR GENERAL (HQ),
MINISTRY OF HEALTH AND FAMILY WELFARE,
DIRECTORATE GENERAL OF CENTRAL
GOVERNMENT HEALTH SCHEME (CGHS III),
ROOM No. 342 A, NIRMAN BHAVAN,
NEW DELHI 110011.





4. SECRETARY TO GOVERNMENT OF INDIA,
MINISTRY OF HEALTH AND FAMILY WELFARE,
DEPARTMENT OF HEALTH AND
FAMILY WELFARE, (EHS SECTION),
ROOM No. 156,A
NIRMAN BHAVAN,
NEW DELHI 110011.

...APPELLANTS

(BY SRI KUMAR M. N., ADVOCATE)

AND:

1. SRI. L. KRISHNAMURTHY,
FORMER STATE INFORMATION COMMISSIONER,
GOVERNMENT OF KARNATAKA,
R/AT No. 4876/5,
CHIKKANNA LAYOUT,
NELAMANGALA TOWN,
BENGALURU RURAL 562123.
2. UNDER SECRETARY TO GOVERNMENT OF
KARNATAKA,
DEPARTMENT OF PERSONNEL,
PUBLIC AND ADMINISTRATIVE
REFORMS, (JANASPANDANA CELL),
3RD FLOOR, PODIUM BLOCK,
V. V. TOWER,
BENGALURU 560001.
3. ADDITIONAL SECRETARY TO GOVERNMENT
OF INDIA,
MINISTRY OF PEROSNNEL,
PUBLIC GRIEVANCES AND PENSIONS,
5TH FLOOR, SARDAR PATEL BHAVAN,
NEW DELHI-110001.

...RESPONDENTS

(BY MS. ANITHA, ADVOCATE FOR
SRI PRASANNA KUMAR, ADVOCATE FOR C/R1 ;
SMT. NILOUFER AKBAR, AGA FOR R2;
VIDE ORDER DATED 05.01.2024 NOTICE TO R3
IS DISPENSED WITH)



THIS WRIT APPEAL IS FILED UNDER SECTION 4 OF THE KARNATAKA HIGH COURT ACT PRAYING TO SET ASIDE THE FINAL ORDER DATED 21/06/2023 PASSED IN WP No.21507/2021, BY THE LEARNED SINGLE JUDGE OF THIS HON'BLE COURT.

IN CCC No. 1154 OF 2023

BETWEEN:

- 1 . SRI. L. KRISHNAMURTHY,
AGED ABOUT 58 YEARS,
FORMER STATE INFORMATION COMMISSIONER,
GOVERNMENT OF KARNATAKA,
R/AT No. 4876/5,
CHIKKANNA LAYOUT,
NELAMANGALA TOWN,
BANGALORE RURAL 562123.

...COMPLAINANT

(BY MS. ANITHA, ADVOCATE FOR
SRI PRASANNA KUMAR P., ADVOCATE)

AND:

- 1 . SHRI. VAIBHAV BAJAJ,
PRINCIPAL SECRETARY OF GOVT. OF INDIA,
MINISTRY OF HEALTH AND FAMILY WELFARE,
ROOM No. 348,
A WING, NIRMAN BHAVAN,
NEW DELHI 110011.
- 2 . DR. S. S. SALIMATH,
ADDL. DIRECTOR, CGHS, BANGALORE,
OFFICE OF THE AD CGHS,
3RD FLOOR, E WING,
KENDRIYA SADAN,
KORAMANGALA,
BANGALORE 560034.
- 3 . DR. A. C. HAZARIKA,
ADDL. DY. DIRECTOR GENERAL (HQ),
MINISTRY OF HEALTH AND FAMILY WELFARE,
DIRECTORATE GENERAL OF CENTRAL



GOVERNMENT HEALTH SCHEME (CGHS III),
ROOM 342 A, NIRMAN BHAVAN,
NEW DELHI 110011.

- 4 . SHRI RAJESH BHUSHAN,
SECRETARY TO GOVT. OF INDIA,
MINISTRY OF HEALTH AND FAMILY WELFARE,
DEPARTMENT OF HEALTH AND
FAMILY WELFARE (EHS SECTION),
ROOM No.156A, NIRMAN BHAVAN,
NEW DELHI 110011.

- 5 . SHRI NAGAPRASHANTH,
UNDER SECRETARY TO GOVT. OF INDIA,
DEPARTMENT OF PERSONNEL AND
ADMINISTRATIVE REFORMS (JANASPANDANA CELL),
3RD FLOOR, PODIUM BLOCK,
V. V. TOWER, BANGALORE 560001.

- 6 . SHRI SANJIV NARAIN MATHUR,
ADDL. SECRETARY TO GOVT. OF INDIA,
MINISTRY OF PERSONNEL, PUBLIC
GRIEVANCES AND PENSIONS,
5TH FLOOR, SARDAR PATEL BHAVAN,
NEW DELHI 110001.

...ACCUSED

- 7 . STATE GOVT. OF KARNATAKA,
REP. BY PRINCIPAL SECRETARY TO GOVERNMENT
DEPARTMENT OF HEALTH AND FAMILY WELFARE,
VIKAS SOUDHA,
BENGALURU – 560001.

...PROFORMA RESPONDENT

(BY SRI H. SHANTHI BHUSHAN, DSGI FOR A1 TO A4)

THIS CCC IS FILED UNDER SECTIONS 11 AND 12 OF CONTEMPT OF COURTS ACT 1971 READ WITH ARTICLE 215 OF THE CONSTITUTION OF INDIA, BY THE COMPLAINANT PRAYING TO INITIATE CONTEMPT PROCEEDINGS AGAINST THE ACCUSED FOR HAVING WILLFULLY DISOBEYED THE FINAL ORDER DATED 21.6.2023 PASSED BY THIS HON'BLE COURT IN WP No.21507/2021 PRODUCED AS ANNEXURE-A AND PUNISH THE ACCUSED IN ACCORDANCE WITH LAW.



THIS WRIT APPEAL C/W CCC COMING ON FOR ORDERS THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE THE CHIEF JUSTICE MR. JUSTICE
N. V. ANJARIA
and
HON'BLE MR. JUSTICE K. V. ARAVIND

ORAL JUDGMENT

(PER: HON'BLE MR. JUSTICE K. V. ARAVIND)

This appeal under Section 4 of the Karnataka High Court Act, 1961, is by respondent Nos.1 to 4 assailing the order of learned Single Judge in Writ Petition No.21507 of 2021, dated 21.06.2023.

2. Heard learned advocate Mr.Kumar M.N., for the appellants, learned advocate Ms. Anitha for learned advocate Mr. Prasanna Kumar for respondent No.1 and learned Additional Government Advocate Smt. Niloufer Akbar for respondent No.2 in Writ Appeal No.1556 of 2023; and learned advocate Ms. Anitha for learned advocate Mr. P. Prasanna Kumar for the complainant and learned Deputy Solicitor General of India Mr. H. Shanthi Bhushan for accused Nos.1 to 4 in CCC No.1154 of 2023.

3. Respondent No.1-original writ petitioner was appointed as State Information Commissioner under the provisions of the Right



to Information Act, 2005, under Notification dated 14.10.2014.

Respondent No.1 retired from service on 25.10.2019.

4. The Central Government issued Notification dated 24.10.2019 whereby, the Rules called “The Right to Information (Term of Office, Salaries, Allowances and other Terms and Conditions of Service of Chief Information Commissioner, Information Commissioners in the Central Information Commission, State Chief Information Commissioner and State Information Commissioners in the State Information Commission) Rules, 2019 [Rules 2019], were notified. The Rules 2019 provided for medical facilities to the Information Commissioners.

5. Respondent No.1 made a request to issue Central Government Health Scheme Card [‘CGHS Card’]. The request was rejected as respondent No.1 retired on 25.10.2019.

6. Respondent No.1 preferred Writ Petition No.21507 of 2021 challenging the endorsement dated 06.01.2020 whereby, the request to issue CGHS Card was allowed.

7. Learned Single Judge held that in terms of Rule 18 of Rules 2019, dated 24.10.2019, respondent No.1 is entitled to the benefit of Rules 2019 as respondent No.1 retired from service on



25.10.2019 i.e. after the Rules coming into force. This order of learned Single Judge is assailed in this appeal.

Submissions

8. Sri. M.N. Kumar, learned advocate appearing for the appellants submits that respondent No.1 retired from service on 25.10.2019. The benefit of Rules 2019 on 24.10.2019 cannot be extended. Learned advocate submits that the Rules provided medical facilities only for the period when the Information Commissioners are in service. As respondent No.1 retired from service, is not entitled for CGHS Card. Learned Single Judge committed an error in directing issuance of CGHS facilities.

9. Learned advocate for the appellants relies on the judgment of Hon'ble Supreme Court in ***Union of India and another vs. S.B. Vohara and others, [(2004) 2 SCC 150,*** to contend that when respondent No.1 has no right under CGHS, direction of learned Single Judge to extend the benefit by exercising the jurisdiction under Article 226 of the Constitution of India, is not correct.

10. *Per contra*, learned advocate appearing for respondent No.1 submits that the Rules 2019 extending medical facilities to State



Information Commissioner in the Central Government Health Scheme was in force prior to retirement of respondent No.1. As the Rules were in force and respondent No.1 was in service as on the date of the notification of Rules, respondent No.1 is entitled to the benefit of Rules 2019 in respect of medical facilities under the Central Government Health Scheme.

11. Learned advocate further submits that the Central Government Health Scheme does not make any distinction for extending facilities while in service or post retirement. The CGHS prior to Rules 2019 has not made any distinction regarding applicability of the scheme to retired employees, it is not open to the appellants to contend that the benefits under Rules 2019 cannot be extended to respondent No.1 after retirement.

12. Learned advocate relies on the judgment of Hon'ble Supreme Court in the case of ***Shiva Kant Jha vs. Union of India [(2018) 16 SCC 187]*** to contend that the Government employee is entitled to get medical facilities under the scheme during his life time or after his retirement. It is submitted that learned Single Judge rightly appreciating the scope of Rules 2019 held that



respondent No.1 is entitled for medical facilities under CGHS in terms of Rule 18 of the said notification.

ANALYSIS

13. The respondent No.1 was appointed as State Information Commissioner under Notification dated 14.10.2014 and retired from service on 25.10.2019. The Notification dated 24.10.2019 notifies the Rules called “The Right to Information (Term of Office, Salaries, Allowances and other Terms and Conditions of Service of Chief Information Commissioner, Information Commissioners in the Central Information Commission, State Chief Information Commissioner and State Information Commissioners in the State Information Commission) Rules, 2019. Rule 18 of the said Rules 2019 deals with medical facilities to the State Information Commissioners. Rule 18 reads as under;

*“18. **Medical Facilities:-** The State Chief Information Commissioner or State Information Commissioners, as the case may be, shall be entitled to medical treatment and Hospital facilities as provided in the Central Government Health Scheme and at places where the Central Government Health Scheme is not in operation, the State Chief Information Commissioner and State Information Commissioners, as the case may be, shall be entitled to medical facilities as provided in the Central Service (Medical*



Attendance) Rules, 1944, or such medical facilities provided by the State Government to an officer holding a post carrying the same pay in the State Government, as revised from time to time.”

14. The Rules under Notification dated 24.10.2019 were in force much before retirement of respondent No.1 on 25.10.2019. As respondent No.1 was in service as on the date of notification of Rules, there is no doubt that he is entitled to the benefit under Rules 2019.

15. As per Rule 18 of the Rules 2019, the State Information Commissioners were made entitle to medical treatment and hospital facilities as provided under the Central Government Health Scheme. The said Rule further provides that when CGHS is not in operation, the State Information Commissioners are entitled to medical facilities as provided in the Central Service (Medical Attendance) Rules, 1944, or such medical facilities provided by the State Government to an office holding a post carrying the same pay in the State Government as revised from to time.

16. On reading of Rule 18, it is clear that CGHS is being made applicable to the State Information Commissioners. It is not the case of the appellants that the retired employees are not provided



CGHS facilities. When the CGHS has not disentitled the Government employee from availing medical facilities after retirement, in the absence of any such restriction under Rule 18, it is not permissible to contend that the State Information Commissioner would not be entitled to CGHS after retirement. Rule 18 has extended the medical facilities under CGHS without any fetters.

17. It is relevant to extract the observations of Hon'ble Supreme Court in the case of **Shiva Kant Jha** (*supra*), which reads as under,

“17. It is a settled legal position that the government employee during his lifetime or after his retirement is entitled to get the benefit of the medical facilities and no fetters can be placed on his rights.”

“18. The Central Government Health Scheme (CGHS) was propounded with a purpose of providing health facility scheme to the Central Government employees so that they are not left without medical care after retirement. It was in furtherance of the object of a welfare State, which must provide for such medical care that the scheme was brought in force.”

“19. In the present view of the matter, we are of the considered opinion that CGHS is responsible for taking care



of healthcare needs and well-being of the Central Government employees and pensioners.”

18. The scope of Rule 18 of the Rules 2019 are to be read by considering the observations made by Hon'ble Supreme Court in the above paragraphs. On giving objective interpretation to Rule 18 of the Rules 2019, it cannot be said that respondent No.1 would not be entitled for CGHS after retirement in the absence of any specific restriction to that effect.

19. Learned Single Judge after considering the above aspects and the scope of Rules of 2019 notified in the Notification dated 24.10.2019 has rightly held that respondent No.1 is entitled to medical treatment as per CGHS even after retirement from service. No fundamental error from the judgment of learned Single Judge is pointed out to interfere with the order.

20. In view of above findings that respondent No.1 is entitled to medial facilities as per CGHS even after retirement from service in terms of Rules 2019, the jurisdiction exercised by learned Single Judge under Article 226 of the Constitution of India cannot be faulted. The judgment relied on by the appellant is not applicable to the facts of the case.



21. In view of the preceding discussion, this Court is not inclined to interfere with the order of learned Single Judge. The appeal has to fail. Writ appeal is dismissed.

In view of dismissal of main appeal, pending interlocutory applications, if any, do not survive for consideration and they stand disposed of.

22. Insofar as CCC No.1154 of 2023, the order in contempt was subject matter in the above writ appeal. In view of the writ appeal is considered on merits, it can hardly be said that the respondents have disobeyed the order much less willful disobedience. However, the respondents are directed to comply the order in Writ Petition No.21507 of 2021 dated 21.06.2023 and this order within eight weeks.

**Sd/-
(N. V. ANJARIA)
CHIEF JUSTICE**

**Sd/-
(K. V. ARAVIND)
JUDGE**