



2026:DHC:5231-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 2468/2025

Judgment reserved on: 11.05.2026**Judgment pronounced on: 01.07.2026**

SUBHASH CHANDERPetitioner

Through: Petitioner in person

versus

UNION OF INDIA & OTHERSRespondents

Through: Mr. Rishabh Sahu, SPC with
Mr. Sameer Sharma, Adv.**CORAM:****HON'BLE MR. JUSTICE C.HARI SHANKAR****HON'BLE MR. JUSTICE OM PRAKASH SHUKLA****JUDGMENT****01.07.2026**

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OM PRAKASH SHUKLA, J.

1. The present writ petition under Article 226 and 227 of the Constitution of India is directed against the dismissal of the O.A. No. 1345/2017 and the subsequent review filed by the petitioner herein in R.A. No. 129/2024 by the learned Central Administrative Tribunal, Principal Bench, New Delhi¹ *vide* orders dated 23.10.2024 and 02.01.2025 respectively. The learned Tribunal, by way of impugned order, has directed the petitioner to deposit a lumpsum amount of Rs. 78,000/- for availing the life-time Central Government Health Scheme² pensioner card.

¹ "Tribunal" hereinafter

² "CGHS", hereinafter



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2. By way of this petition, the petitioner seeks quashing of the aforesaid orders and remand of the matter to the Tribunal for reconsideration.

3. The short issue that arises for our consideration is whether the petitioner's subscription towards the CGHS life-time pensioner card is to be governed by the Office Memorandum³ dated 20.05.2009 prescribing a monthly contribution of Rs. 325/-, or by the revised OM dated 09.01.2017 enhancing the monthly contribution to Rs. 650/- with effect from 01.01.2017.

4. The facts relevant for the disposal of this writ petition are that the Petitioner superannuated on 30.04.2016 as Assistant Controller of Accounts in the Ministry of Home Affairs, undisputedly, in the Grade Pay of Rs. 5400/-.

5. It is the case of the petitioner that post his retirement, he admittedly settled in a non-CGHS area and at the time of his retirement, in order to avail the life-time CGHS pensioner card, a monthly contribution of Rs. 325/- was applicable as per OM dated 20.05.2009 issued by Ministry of Health and Family Welfare. Thereafter, *vide* OM dated 09.01.2017, the rate of the monthly contribution was revised to Rs. 650/- w.e.f. 01.01.2017 as per recommendations of the 7th Central Pay Commission⁴.

³ "OM" hereinafter

⁴ "CPC" hereinafter



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6. As per the aforesaid OMs, pensioners had the option to obtain the CGHS pensioner card by making contributions on an annual basis (12 months) or by making a one-time contribution for 10 years (120 months) with life-time validity.

7. The petitioner sought to avail the life-time CGHS card and for the said purpose, visited the CGHS office on 03.03.2017.

8. Since the OM dated 09.01.2017 had come into effect by then, the petitioner was asked to deposit a lump sum contribution of Rs. 78,000/- calculated at the revised monthly rate of Rs. 650/-.

9. However, it is the case of the petitioner that the old rate, i.e. Rs. 325/-, would be applicable to him and as such, in this regard, submitted a representation dated 06.03.2017 but to no avail.

10. Accordingly, the petitioner approached the learned Tribunal which, *vide* an interim order dated 20.09.2019, directed the respondents to reconsider his representation with a speaking order within two months in light of para 5(i) of the O.M. dated 09.01.2017, which provides that the contribution to be made by pensioners/family pensioners shall be the amount which they were subscribing at the time of their retirement or at the time of death of the Government servant.

11. In pursuance thereof, the respondents, through Additional Director, CGHS, passed an order dated 01.12.2023, whereby the case of the petitioner was reconsidered and placed reliance on Para 5(v) of the aforesaid OM dated 09.01.2017, which provided that any



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pensioner/family pensioner who is entitled to avail CGHS facility but has not yet obtained a CGHS pensioner card shall be required to pay contribution with reference to the level of pay which he/she would have drawn in the post held at the time of retirement/death had he/she continued in service. Accordingly, it was held that beneficiaries who retired prior to 01.01.2017, i.e. the date on which the OM dated 09.01.2017 came into effect, are liable to deposit the contribution as per the revised rates applicable for issuance of CGHS pensioner cards.

12. In view of the aforesaid order passed by the respondents, the petitioner amended his O.A. and challenged the order dated 01.12.2023 mainly on grounds that (i) the impugned order was rendered only in context of para 5(v), which is contrary to Para 5(i) of OM dated 09.01.2017 and despite the specific direction issued by the learned Tribunal to consider the representation of the petitioner in light of Para 5(i), the respondents failed to take the said provision into consideration; (ii) the impugned order ignored OM dated 09.02.2017, particularly Para 5(i), which permits employees superannuating on or before 31.01.2017 to avail CGHS facilities at the pre-revised rates and (iii) the petitioner had already exercised his option for CGHS facilities under OM dated 19.12.1997 and, therefore, his entitlement could not have been determined on the basis of the date of application for issuance of the CGHS card.

13. However, the aforesaid O.A. came to be dismissed by the Tribunal by the impugned order dated 23.10.2024 with the following reasons:



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(i) Reliance was placed on OM dated 09.01.2017 whereby the rates of contribution were revised as per 7th CPC. Hence, at grade pay of Rs. 5400/-, the petitioner was directed to make contribution at Rs. 650/- per month for 10 years (120 months), i.e., Rs. 78,000/- (Rs. 650 x 12 months x 10 years) for life-time CGHS card.

(ii) The order dated 01.12.2023 passed by Additional Director (CGHS) was well-reasoned and rational and clearly directed petitioner to pay the revised rates as per Para 5(v) of the OM dated 09.01.2017.

(iii) A subsequent OM dated 13.01.2017 clarified that the employees superannuating on or before 31.01.2017 and had submitted their applications on or before the said date may be allowed to subscribe at the rates as applicable on 31.01.2017, whereas the pensioners applying for the CGHS card after this date would have to pay the revised rates.

(iv) As per DoPT⁵ OM dated 19.11.2014, the petitioner was entitled to Fixed Medical Allowance⁶ at Rs. 500/- per month. Accordingly, the respondents were directed to pay the said allowance from 01.05.2016 till when the petitioner paid Rs. 78,000/- for the CGHS life-time card. To reduce financial burden, the respondents were also requested to consider

⁵ Department of Personnel and Training

⁶ "FMA", hereinafter



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adjusting the arrears of FMA to be paid to the petitioner from the lump sum Rs. 78,000/- owed by the petitioner.

14. Thereafter, the petitioner preferred a review petition contending that the revised rates as per OM dated 09.01.2017 were only applicable to employees in service and not pensioners, who were instead covered by P ara 5(v) of the said OM. Another ground was that the rate of medical allowance was revised from Rs. 500/- to Rs. 1000/- *vide* a subsequent OM dated 19.07.2017. It was also contended that the date of submission of the application was extended to 15.03.2017 by OM dated 21.02.2017 and that the petitioner had visited the CGHS office before this date, i.e. on 03.03.2017.

15. However, the aforesaid review petition was dismissed on the ground that even if the petitioner opted for the CGHS scheme prior to his retirement, he had not paid the requisite fees to become a beneficiary at that time and therefore, he cannot be held to be a subscriber of the said scheme before the OM dated 09.01.2017 came into force. Hence, if he wanted to become a beneficiary now, he was bound to pay the revised rates of subscription introduced by O.M. dated 09.01.2017.

16. Aggrieved, the petitioner filed the instant writ petition before this Court.

17. On the last date of hearing i.e. 11.05.2026, both parties agreed that the matter may be decided based on the material on record and, accordingly, dispensed with oral submissions before this Court.



18. Having considered the entirety of facts and carefully perusing the material on record, we are of the opinion that the present petition deserves to be dismissed on account of reasons to follow.

19. The only question which arises for our consideration is the rate which the petitioner is liable to pay for availing the life-time CGHS pensioner card.

20. It is well settled that this Court under Article 226 exercises its extraordinary jurisdiction within limited parameters and does not act as an appellate or revisional court. We reiterate that re-appreciation of evidence is impermissible unless the decision of the Tribunal suffers from an irregularity, or is perverse, illegal or rendered without jurisdiction.⁷ Further, it is also settled that the powers of this Court under Article 227 must be exercised sparingly to keep subordinate courts and tribunals within bounds of their respective jurisdictions and not to correct mere errors.⁸

21. Adverting to the case at hand, it is not disputed that a retired Central Government employee, residing in a non-CGHS area can avail a CGHS card for himself and his dependents. Therefore, the controversy is restricted to the contribution or subscription amount for the said CGHS card, which the petitioner herein is required to pay.

⁷ *Ajay Singh v. Khacheru*, (2025) 3 SCC 266; *Chandavarkar Sita Ratna Rao v. Ashalata S. Guram*, (1986) 4 SCC 447

⁸ *State v. Navjot Sandhu*, (2003) 6 SCC 641 : 2003 SCC (Cri) 1545; *Celina Coelho Pereira v. Ulhas Mahabaleshwar Kholkar*, (2010) 1 SCC 217



22. Before proceeding further, we deem it appropriate to extract the reasoning of the Tribunal rendered in the underlying O.A. It is reproduced thus:

“6. Heard both sides and examined the documents on record. Keeping in view the arguments advanced by both the parties, we are of the considered opinion that the speaking order passed by the Additional Director, CGHS Head Quarter, in compliance with the directions passed by this Tribunal in MA No. 3590/2022 vide Daily Order dated 20.09.2019 is a well reasoned, rational and clearly a self explanatory order directing the applicant to deposit the fees for the CGHS Card which *inter alia* reads as under:-

“Subject: Speaking Order in compliance with the directions of Hon'ble Central Administrative Tribunal, New Delhi in MA No. 3590/2022 in OA No. 1345/2017 in the case of Subhash Chander Vs U.O.I. & Ors.

With reference to the above subject the undersigned is directed to refer to the Daily Order dated 20th September, 2019 of Hon'ble Central Administrative Tribunal, New Delhi in MA No. 3590/2022 in OA No. 1345/2017 in the case of Subhash Chander Vs U.O.I. & Ors. with a direction to the respondents to reconsider the representation dated 06.03.2017 of the applicant (Sh. Subhash Chander) and keeping in view Para 5(i) of OM No. S.11011/11/2016-CGHS(P)/EHS dated 09.01.2017 pass a detailed reasoned and speaking order afresh.

In compliance of the directions of Hon'ble Central Administrative Tribunal, New Delhi, the representation of the applicant (Sh. Subhash Chander) has been reconsidered and as per Para 5(v) of OM No. S.11011/11/2016-CGHS(P)/EHS dated 09.01.2017, "Any pensioner/family pensioner who is entitled to avail CGHS facility has not so far got his/her pensioner CGHS card made, the rate of contribution in such cases will be with reference to the level of pay that he/she would have drawn in post held by him/her (at the time of his/her retirement/death) had he/she continued to be in service now but for his/her retirement/death".

Hence, as on date, the beneficiaries retired before 01.02.2017 have to deposit the CGHS contribution as per the prevailing rates for CGHS pensioner card.”



7. As per the Office Memorandum dated 09.01.2017, the rates have been revised from Rs.325/- per month to Rs.650/- per month with effect from 01.01.2017 and to get the CGHS Card with lifetime validity, a pensioner has to make contribution for 10 years (120 months) at the rate of Rs.650/- per month which comes to Rs.78,000/- (Rs.650 x 12 months x 10 years). Subsequent to the OM dated 09.01.2017 another OM of even No. dated 13.01.2017 was issued which *inter alia* reads as follows :-

“Those employees superannuating on or before 31/1/2017 and had submitted their application on or before 31/1/2017 may be allowed the subscription at the prevalent rates applicable as on 31/1/2017 vide OM no. 5.110111/2/2008-CGHS (P) dated 20/5/2009. Pensioners applying for CGHS pensioner card on annual/lifetime basis after 31/1/2017 will have to pay as per the revised rates effective from 1/2/2017 vide OM of even no. dated 13/1/2017.”

In the light of the above clear order, the applicant hereby is directed to pay Rs.78,000/- and get his lifelong CGHS card. The ratio given in the Judgment of Hon'ble Supreme Court in **UOI and others vs. Mahendra Singh** 2022 SCC Online SC 909 which reiterates the settled principle in law “*by Privy Council in the Nazir Ahmed vs. King Emperor, wherein it was held that “that where a power is given to do a certain thing in a certain way the thing must be done in that way or not at all. Other methods of performance are necessarily forbidden.”*” gives more force to this.

8. We have observed that the applicant retired on 30.04.2016 and then settled down in a non CGHS area where he is entitled to fixed medical allowance of Rs.500/- per month as per DoPT's OM No. 4/25/2008-P&PW(D) dated 19.11.2014 which reads as follows :-

“The undersigned is directed to say that at present Fixed Medical Allowance is granted to the Central Government pensioners/family pensioners residing in areas not covered under Central Government Health Scheme administered by the Ministry of Health & Family Welfare and corresponding health schemes administered by other Ministries/Departments for their retired employees for meeting expenditure on their day-to-day medical expenses that do not require hospitalization Orders were issued vide this Department's O.M. of even no, dated 26.05.2010 for enhancement of the amount of Fixed Medical Allowance from Rs. 100/- to Rs. 300/-p.m we.f. 1.09.2008



2. *The demand for further enhancement of FMA has been under consideration of the Government for some time past. Sanction of the President is hereby conveyed for enhancement of the amount of Fixed Medical Allowance from Rs 300/- to Rs.500)-per month. The other conditions for grant of Fixed Medical Allowance shall continue to be as contained in this Departments OMs No.45/57/97-P&PW(C) dated 19.12.97, 24.8.98, 30.12.98 and 18.8.99.*

3. *These orders will take effect from date of issue of this OM.*

4. *These orders are issued with the concurrence of the Ministry of Finance (Deptt. of Expenditure) vide their I.D. Note No 588/F.V/2014 dated 22.10.2014 and in consultation with the Comptroller and Auditor General of India vide their UO No. 174 Staff (Rules)/02-2011 dated 12. 11 2014.”*

9. *Accordingly, in light of the above OM, the respondents are directed to pay to the applicant a fixed medical allowance at the rate of Rs.500/- per month from 01.05.2016 till the present date when the applicant pays Rs.78,000/- as a lump sum amount for the lifetime CGHS card. This exercise shall be carried out by the respondents within a period of two months from the date of receipt of a certified copy of this order. However, on ground of equity, the respondents may consider adjusting the arrears of fixed medical allowance payable to the applicant from the amount of Rs.78,000/- to be paid by the applicant for the life long CGHS Card so that his financial burden is reduced.”*

23. We also deem it relevant to extract and reproduce the decision passed by the Tribunal in the review application, as follows:

“4. We have given our thoughtful consideration to the issues raised in the RA and are of the considered opinion that there has been no miscarriage of justice or travesty of law. The applicant who retired as Assistant Controller of Accounts, Ministry of Home Affairs, on 30.04.2016 may have opted for the CGHS Scheme before his retirement but since he had not paid the requisite fees at that point of time, hence he was not made a CGHS beneficiary by the respondents. During the course of hearing of this OA filed by the applicants, Office Memorandum dated 09.01.2017 on revision of rates of subscription under CGHS was issued by the Government



and now under the extant rules and regulations, if the applicant wants to now become a CGHS beneficiary, then he has to abide by the existing government orders on this subject. He has to pay an amount of Rs.78,000/- at the rate of Rs.650/- per month for 10 years (120 months) as per the OM dated 09.01.2017. Now, he can no longer hide behind the old rules and has to pay as per the revised rules and that has been clearly mentioned in our order dated 23.10.2024.

5. We strongly deny the allegation that there has been any violation of Rules and orders of Civil Procedure Code, 1908. There have been no errors and omissions of both – points of facts as well as points of law. No evidence advanced by the applicant's plea that the OA has been decided without getting into the merits of the case and without determination of points of dispute with reason is unjustified and untenable. We have decided the OA on 'fair, equitable and reasonable grounds' in a holistic and judicious manner adhering to the three principles of natural justice:-

- (i) *Nemo Judex in causa sue* (Rule against bias);
- (ii) *Audi Alteram Partem* (Rule of fair hearing) and
- (iii) Our orders are well reasoned and speaking with clear and cogent *raison d'être/ratio decidendi*.

6. To our mind, the instant RA is disguised as an Appeal. It is a settled principle in service jurisprudence that Tribunals are not meant to be Appellate Fora against their own orders and that the appeal against the Tribunal's order lies before the Hon'ble High Court. Accordingly, we find no merit in the instant RA and the same is dismissed."

24. After carefully examining both the impugned orders, we find little room for interference in the reasoning adopted by the Tribunal with respect to payment of contribution amount of Rs. 78,000/-.

25. It is evident from the above excerpts that the Tribunal, in addition to the order dated 01.12.2023 passed by Additional Director (CGHS), relied on the OMs dated 09.01.2017 and 13.01.2017.



26. For the sake of convenience, it is apposite to reproduce the relevant excerpt of the OM dated 09.01.2017 below:

Dated 9th January, 2017

OFFICE MEMORANDUM

Sub: Revision of rates of subscription under Central Government Health Scheme due to revision of pay and allowances of Central Government employees and revision of pension/family pension on account of implementation of recommendations of the Seventh Central Pay Commission.

The undersigned is directed to refer to this Ministry's OM No. S.11011/2/2008-CGHS(P) dated 20th May, 2009 vide which orders were issued revising the rates of monthly subscription for availing CGHS facility, as also the entitlement for free diet, entitlement of accommodation in private empanelled hospitals under CGHS, etc.

2. *Consequent upon revision of pay on the basis of the implementation of the recommendations of the 7 Central Pay Commission, it has been decided to revise the rates of subscriptions, to be made by employees / pensioners, for availing benefits under the CGHS, with effect from 1st January, 2017. It has also been decided to revise the monetary ceiling limits for various entitlements of the beneficiaries for availing CGHS facilities.*

3. *In supersession of all earlier instructions, the following revisions are being made, in so far as it relates to the facilities mentioned below:*

(A) Monthly Contributions for availing CGHS facility:

<i>Sl. No</i>	<i>Corresponding levels in the Pay Matrix as per 7th CPC</i>	<i>Contribution (Rs. Per month)</i>
<i>1.</i>	<i>Level: 1 to 5</i>	<i>250</i>
<i>2.</i>	<i>Level: 6</i>	<i>450</i>
<i>3.</i>	<i>Level: 7 to 11</i>	<i>650</i>
<i>4.</i>	<i>Level: 12 & above</i>	<i>1000</i>



5. Pensioners have an option to get their CGHS pensioner card made by either making CGHS contribution on an annual basis (twelve months) or by making contribution for 10 (ten) years {120 (one hundred and twenty) months} for getting a pensioner CGHS card with life-time validity. It is clarified that:

(i) Contribution to be made by pensioners / family pensioners would be the amount that they were subscribing at the time of their retirement or at the time of death of the Government servant;

(ii) Pensioner beneficiaries, who have already obtained CGHS card with life time validity by paying a lump sum amount equivalent to 10 years' contribution, will not be required to pay any additional amount as a result of the revision in the rates of contribution for availing CGHS facility;

(iii) Entitlement of pensioners / family pensioners, who have already deposited their contribution for life time CGHS facility, will not be changed.

(iv) Pensioners / family pensioners who are contributing to the CGHS on an annual basis and wish to continue to avail CGHS benefits will have to contribute at the revised rates up to the time of contribution needed to cover a period of a total of ten years from the time pensioner CGHS card was issued for the first time to them. The revised rate of contribution for the remaining period would be with reference to the level of pay that he / she would have drawn in the post held by him / her (at the time of his / her retirement / death) had he / she continued to be in service now but for his / her retirement/ death; and

(v) Any pensioner / family pensioner who is entitled to avail CGHS facility has not so far got his / her pensioner CGHS card made, the rate of contribution in such cases will be with reference to the level of pay that he / she would have drawn in the post held by him / her (at the time of his / her retirement / death) had he / she continued to be in service now but for his/ her retirement / death."

(emphasis supplied)

27. It emerges from a reading of the aforesaid OM that in "supersession of all earlier instructions", the revised rate of contribution was fixed as Rs. 650/- at the relevant level of pay w.e.f. 01.01.2017 for all "employees / pensioners". Thus, no distinction has been drawn, as contended by the petitioner, that such revision only applies to employees in service and not pensioners.



28. Para 5(i) of this OM expressly stipulates that a pensioner shall contribute the amount they were subscribing to at the time of their retirement.

29. It is on the strength of this provision that the in-person petitioner claims payment of contribution at the earlier rate of Rs. 325/- (Rs. 325 x 12 months x 10 years = Rs. 39,000) which was applicable at the time of his retirement.

30. At this stage, we digress a little to clarify that the earlier rate of Rs. 325/- was stipulated in OM dated 20.05.2009 as per the recommendations of the 6th CPC. With the advent of the 7th CPC, this OM was superseded by OM dated 09.01.2027, which revised the rate of the relevant pay grade to Rs. 650/-.

31. Coming back to Para 5(i) of the OM dated 09.01.2017, we note that, as recorded by the Tribunal in the R.A., the petitioner had merely submitted his application and had not paid the requisite lumpsum amount at that stage. Simply put, absent the payment of the contribution, the petitioner cannot be said to have “subscribed” to the scheme within the meaning of Para 5(i). Consequently, Para 5(i) does not apply to the petitioner.

32. Accordingly, the grievance of the petitioner that order dated 01.12.2023 passed by the Additional Director (CGHS) was not a reasoned order, inasmuch as the Tribunal had directed reconsideration of the petitioner’s representation in light of para 5(i) of the said OM, whereas the said order pertained to para 5(v), stands resolved.



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33. However, in the same breath, we note that the petitioner falls squarely within the ambit of Para 5(v) of the aforesaid OM dated 09.01.2017. Para 5(v) expressly provides that a pensioner who has not yet obtained their CGHS card shall contribute as per the level of pay that they would have drawn in the post held by them at the time of retirement, had they continued to be in service “now”. Accordingly, the earlier rate of Rs. 325/-, having been revised with effect from 01.01.2017 by the aforesaid OM, shall not apply.

34. Needless to state that since Para 5(v) caters to a more specific situation, i.e., pensioners who have not got their CGHS pensioner card made, it shall prevail over Para 5(i).

35. Consequently, in light of Para 5(v), the revised rate of Rs. 650/- applicable from 01.01.2017, shall apply to the petitioner. We note that although he superannuated on 30.04.2016 and may have even applied for the Scheme prior to his retirement (i.e., 04.04.2016 as borne from the record), he did not deposit the requisite fees at that stage. Instead, he approached the CGHS office only on 03.03.2017, by which date the revised rates introduced by the aforesaid OM dated 09.01.2017 had already come into effect from 01.01.2017.

36. In our considered view, in the absence of anything to the contrary available on record, the aforesaid OM dated 09.01.2017 continues to hold the field. Therefore, the petitioner cannot, by reading Para 5(i) of the said OM in vacuum, claim payment of contribution at the old rate.



37. We now advert to the OM dated 13.01.2017, as also referred to by the Tribunal in the impugned decision rendered in the O.A. It is reproduced as follows:

“Those employees superannuating on or before 31/1/2017 and had submitted their application on or before 31/1/2017 may be allowed the subscription at the prevalent rates applicable as on 31/1/2017 vide OM no. 5.110111/2/2008- CGHS (P) dated 20/5/2009. Pensioners applying for CGHS pensioner card on annual/lifetime basis after 31/1/2017 will have to pay as per the revised rates effective from 1/2/2017 vide OM of even no. dated 13/1/2017.”

38. A plain reading of the aforesaid clarifies that employees superannuating on or before 31.01.2017, who have submitted their application on or before the said date may be permitted to subscribe at the rates applicable on 31.01.2017 as stipulated by OM dated 20.05.2009. We again clarify that the rates stipulated by OM dated 20.05.2009 stood revised by OM dated 09.01.2017 as noted in the foregoing paragraphs.

39. As borne from the record, though the petitioner superannuated on 30.04.2016, he sought to avail the scheme in March 2017. Hence, it is clear that the petitioner’s case squarely falls under revised rates effected from January 2017.

40. According to the petitioner, the date of submission of the application (i.e., 31.01.2017 as per the aforesaid OM dated 13.01.2017) was extended to 15.03.2017 by a subsequent OM dated 21.02.2017 issued by the Ministry of Health and Family Welfare. This OM reads as follows:



“Attention is drawn to this Ministry's OM of even No. dated 9th February, 2017 on the subject mentioned above.

2. This Ministry has been receiving several representations w.r.t applicability of CGHS rates to pensioners **superannuating on 31/1/2017**.

The matter has been examined in this Ministry and it has been decided that 'employees, who had superannuated on 31/1/2017 may be allowed to apply for CGHS pensioner card by paying the subscription at the prevalent rates applicable as on 31/1/2017 vide OM no. S.110111/2/2008-CGHS (P) dated 20/5/2009 till 15th March 2017.'”

41. There is no doubt that the aforesaid OM clearly extends the time for submission of the application until 15.03.2017. However, even if we accept the contention that the petitioner approached the concerned authority within stipulated time as extended by this OM, i.e. on 03.03.2017, the fact remains that the applicable rate of subscription would be the rate prevailing as on 31.01.2017, i.e., Rs. 650/- which came into effect from 01.01.2017 *vide* OM dated 09.01.2017.

42. We now turn to the remaining contentions raised by the petitioner as emerging from the record.

43. The petitioner relied on an OM dated 19.12.1997 issued by the Ministry of Personnel, Public Grievances and Pensions, to submit that the employer had to obtain the option from retiring employees for availing medical facilities under CGHS or medical allowance. In light of this, the petitioner duly submitted his application on 04.04.2016 as per the record. The petitioner also claimed that he was contributing at the rate of Rs. 325/- for the CGHS pensioner card. However, in view of the specific finding of the Tribunal in the impugned decision rendered



in the R.A. that the petitioner did not pay the required amount at the relevant time, the aforesaid contention does not come to his rescue.

44. According to the petitioner, since the date of submission of the application was extended to 15.03.2017 *vide* OM dated 21.02.2017, correspondingly, the date of effect of OM dated 09.01.2017, i.e., the implementation of the revised rates also stood extended till 15.03.2017. The contention, in effect, is that the old rates would be applicable till 15.03.2017 and since the petitioner approached the authority on 03.03.2017, he is liable to pay as per the old rates only. This contention does not hold any water in view of the explicit stipulation of OM dated 21.02.2017 that, “*employees, who had superannuated on 31/1/2017 may be allowed to apply for CGHS pensioner card by paying the subscription at the prevalent rates applicable as on 31/1/2017 vide OM no. S.110111/2/2008-CGHS (P) dated 20/5/2009 till 15th March 2017.*” It remains clear as day that the rates were revised by the OM dated 09.01.2017 with effect from 01.01.2017 and even the subsequent OM dated 13.01.2017 (stipulating last date as on 31.01.2017) and OM dated 21.02.2017 (extending the last date) did not amend the applicable rate. Hence, the rate applicable as on 31.01.2017 is Rs. 650/-.

45. We, therefore, have no hesitation in concurring with the view taken by the Tribunal that the petitioner is entitled to life-time CGHS card subject to payment of Rs. 78,000/-. However, we deem it fit to examine the limited aspect of the quantum of FMA.

46. Pertaining to FMA, the Ministry of Health and Family Welfare issued an OM dated 29.09.2016, whereby it was clarified that Central



Services (Medical Attendance) Rules of 1944 did not apply to pensioners. It further provided that retirees residing in non-CGHS areas could avail FMA at Rs. 500/- per month and after making required subscription, they could avail CGHS benefits by registering in the nearest CGHS city. The relevant excerpt is thus:

“OFFICE MEMORANDUM

Sub:- Reimbursement of medical claims to pensioners under CS (MA) Rules, 1944 as directed by various CATS/Courts - Regarding.

The undersigned is directed to state that various references are being received in Ministry of Health and Family Welfare on the above mentioned subject. it is hereby clarified that CS (MA) Rules, 1944 are not applicable to pensioners till date.

2. It is further informed that the following options to avail medical facilities are available to Central Government pensioners:

b) Pensioners residing in non -CGHS areas:

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

2) They can also avail benefits of CGHS- [OPD and IPD] 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 treatment after making the required subscriptions as per CGHS guidelines.

3. In view, of the above, reimbursement of medical claims to pensioners under CS (MA) Rules, 1944 as directed by various CATS/Courts, need not be referred to the Ministry of Health and Family Welfare. The respective Administrative Departments/Ministries may take their own decision in this regard.

4. Further, all Departments/Ministries are requested to intimate their employees proceeding for retirement regarding the above options for medical facilities available to the Central Government pensioners.”



47. The contention of the petitioner that pensioners in non-CGHS areas do not pay the CGHS contribution stands belied in view of the aforesaid OM.

48. The petitioner also placed on record an OM dated 19.07.2017 issued by the Ministry of Personnel, Public Grievances and Pensions, whereby the FMA was increased to Rs. 1000/-. It reads thus:

“OFFICE MEMORANDUM

Subject: Grant of Fixed Medical Allowance (FMA) to the Central Government Pensioners residing in areas not covered under CGHS.

*The undersigned is directed to say that at present Fixed Medical Allowance (FMA) is granted to the Central Government pensioners/family pensioners residing in areas not covered under Central Government Health Scheme administered by the Ministry of Health & Family Welfare and corresponding health schemes administered by other Ministries/Departments for their retired employees for meeting expenditure on their day-to-day medical expenses that do not require hospitalization. **Orders were issued vide this Department's O.M. No. 4/25/2008-P&PW(D) dated 19-11-2014 for enhancement of the amount of Fixed Medical Allowance from Rs. 300/- to Rs. 500/-per month w.e.f. 19.11.2014.***

2. *Consequent upon the decision taken by the Government on the recommendations of the 7th Central Pay Commission on Allowances (with modifications), sanction of the President is hereby conveyed for **enhancement of the amount of Fixed Medical Allowance from Rs.500/- to Rs.1000/- per month.** The other conditions for grant of Fixed Medical Allowance shall continue to be as contained in this Department's OMs No. 45/57/97-P&PW(C) dated 19.12.1997, 24.8.1998, 30.12.1998, 18.8.1999 and OM No. 4/25/2008-P&PW(D) dated 19.11.2014.*

3. *These orders will take **effect from 01.07.2017.***”

(emphasis supplied)



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49. It is evident from the above that the quantum of FMA to be granted to pensioners residing in non-CGHS areas was increased from Rs. 500/- to Rs. 1000/- w.e.f. 01.07.2017.

50. Thus, it was in this background that the Tribunal, by the impugned order in O.A., directed the respondents to pay FMA at Rs. 500/- per month from 01.05.2016 till when the petitioner pays Rs. 78,000/- for availing the lifetime CGHS card and suggested adjusting of the arrears in the said payment.

51. However, it may be noted at this juncture that although the petitioner, *vide* his application dated 04.04.2016, submitted that he would reside in a non-CGHS area post his retirement, it is borne from the record that he presently resides in New Delhi.

52. Hence, the petitioner may be entitled to FMA at Rs. 500/- per month from 01.05.2016 till 30.06.2017. Thereafter, he may be entitled to FMA at Rs. 1000/- per month from 01.07.2017 onwards, if applicable. This calculation shall also apply if the respondents choose to adjust the same in the payment of Rs. 78,000/-.

53. In light of the foregoing discussion, it appears to us that the reliance of the petitioner on Para 5(i) of OM dated 09.01.2017 to contend that the rate subscribed to at the time of retirement, i.e. Rs. 325/-, shall apply to him, is wholly erroneous and rightly rejected by the Tribunal.



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54. Consequently, we find no merit in the present writ petition, which accordingly stands dismissed.

55. Pending applications, if any, stand disposed of. No order as to costs.

OM PRAKASH SHUKLA, J.

C.HARI SHANKAR, J.

JULY 01, 2026/gunn/ss