

## Radhey Sham Vs State of Haryana and Another

**Court:** High Court Of Punjab And Haryana At Chandigarh

**Date of Decision:** Jan. 31, 1992

**Acts Referred:** Constitution of India, 1950 Article 226, 227

**Citation:** (1993) 1 ILR (P&H) 357

**Hon'ble Judges:** V.K. Bali, J; Amrit Lal Bahri, J

**Bench:** Division Bench

**Advocate:** Anjana Manocha, for the Appellant; Jaivir Yadav, D.A.G., for the Respondent

**Final Decision:** Allowed

### Judgement

1. Radhey Sham, a driver, working in that office of Financial Commissioner, Haryana has approached this Court under Articles 226 and 227 of

the Constitution for a direction to the Respondents to allow medical reimbursement of his claim which related to the period of his ad hoc service

before he was regularised.

2. The Petitioner was appointed on Ad hoc basis in 1986. With effect from December 31, 1990, he was made regular. Copy of the letter in this

respect is Annexure P/1. Son of the Petitioner was operated upon in the P.G.I, in April, 1990. He was discharged on April 28, 1990 and

thereafter he got treatment in O.P.D. of P.G.I. till November 18, 1990. The entire history is contained in Annexure P/2. The Petitioner claimed

reimbursement of this bill to the tune of Rs. 1337.69 as per details given in Annexure P/3. The claim was rejected on May 2, 1991, -vide order

Annexure P/4 which is under challenge.

3. The stand of the Respondents is that as per the instructions contained in Annexure P/I, the Petitioner was not entitled to reimbursement of

expenditure incurred during the period of ad hoc service.

4. After hearing counsel for the parties, we are of the view that the impugned orders have been passed in clear violation of the instructions

Annexure R/I. Vide letter dated September 20, 1968 on the subject, instructions were issued as under:

This question has been considered by the State Government and decided that the concession regarding reimbursement of medical expenses cannot

be extended to the officials employed through Employment exchanges on Ad hoc basis, as they are not covered by the rules governing free

medical treatment to State Government employees.

Subsequently,--Mde letter dated 24th January, 1969, the aforesaid Instructions were clarified. This letter is also contained in Annexure B/1 and

the relevant portion is as under:

In continuation of Haryana Government letter No. 1642-USFP-Cell (3HBI)-68/22290 dated the 20th September, 1968, on the subject noted I

am directed to say that various departments have approached for seeking clarification on the following two points:

(i) Date with effect from the orders under reference have to be operative viz. whether from the date of issue of the letter under reference.

(ii) Whether the officials who are continuing after the expiry of six months against the regular posts are eligible for the concession to draw the

medical reimbursement charges or not.

2. The State Government have considered the said questions and decided that as regards (i) above, I am to say that since the employees inter alia

appointed on ad hoc basis are not covered under the Medical Attendance Rules for the purpose of claiming the reimbursement of medical charges

right from the beginning, it was not in order to allow reimbursement of such employees. Accordingly medical charges reimbursement in such cases

should be recovered.

3. So far as (ii) above is concerned, I am to point out that the officials employed through Employment Exchanges are not covered under Medical

Attendance Rules, even if they continue to work after six months, unless they are regularised by the Commissioner as such they are not eligible for

availing of the concessions regarding re-imburement of medical charges etc.

A perusal of the instructions makes it clear that it was policy of the Government not to allow concession of Medical reimbursement to the ad hoc

employees. Obviously, if a person was employed for short term, say six months, and he leaves the job, he was not to be granted such a concession

and this is apparent from the instructions referred to above. In the case of a person who was made to work against regular post, a specific point

was raised as (ii) in letter of January 24, 1969, which was answered in para 3 of the aforesaid letter reproduced above. It was clarified that

persons employed through Employment Exchange on ad hoc basis were not to be granted this concession of medical reimbursement even if they

had continued beyond six months. However, exception was made that if they were made regular they would be entitled. Present is a case where

services of the Petitioner were regularised on December 19,1990, which fact is not disputed and in view of the instructions aforesaid, he would be

entitled to reimbursement of the medical expenses incurred during the period of ad hoc service also. For reimbursement of medical bills after

regularisation, case would be covered under the Rules. After regularisation the period of ad hoc service is to be taken into consideration for service

benefits like seniority, pension, gratuity etc. and also for medical reimbursement.

5. For the reasons stated above, order Annexure P/4 is quashed with the direction to the Respondents to reimburse the medical bill submitted by

the Petitioner forthwith. The Petitioner will get costs which are quantified at Rs. 1000.