IN THE SUPREME COURT OF INDIA

SHIVA KANT JHA v. UoI **W.P. (C) 694 /2015**

Filed by the Petitioner-in-Person, Shiva Kant Jha

SUBMISSIONS AT THE THRESHOLD

PART 'Á'

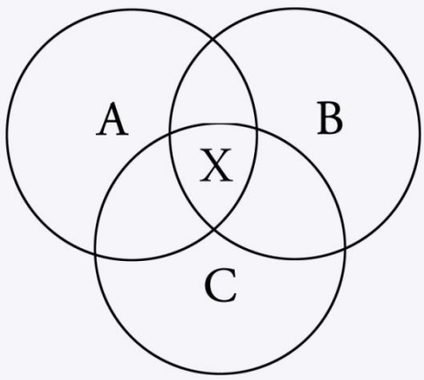
1

The Ambit of the Constitutional and legal Duties of our Government, and the Rights of the retired government servants to the benefit of effective and comprehensive medical treatment at the cost of the Governmfxent.

The claim of this Petitioner comes within the intersecting space, (X), of the three sources of entitlements represented through the following Diagram. It is this X Zone of medical benefits to which all the retired officers of the Central Government Civil Services (Class-I) are entitled. It is this Zone X to which even the medical reimbursement claims of the retired Judges of the Hon'ble Supreme Court belong[1] in view of the provisions of Section 23C of the Supreme Court Judges (Salaries and Conditions of Services Act, 1958 that entitles them to "the same facilities as respects medical treatment and on the same conditions as a retired officer of the central civil services Class-I and his family".

[1] "23C of the Supreme Court Judges (Salaries and Conditions of Services Act, 1958 that prescribes the Medical facilities for retired judges:

> "Every retired judge shall, with effect from the date on which the Supreme Court Judges (Conditions of service) Amendment Act, 1976, receives the assent of the President, be entitled, for himself and his family, to the same facilities as respects medical treatment and on the same conditions as a retired officer of the central civil services class-I and his family, are entitled under any rules and orders of the central government for the time being in force."



A : The CS. (M.A.) Rules,1944
B : Interests protected under the Doctrine of Legitimate Expectation
C : The Govt. of India (Allocation of Business) Rules framed under Article 77 (3) of the Constitution of India

I . The CS (MA) Attendance Rules 1944, on reasonable interpretation, is treated to extend its benefits even to the retirees from the service of the Central Government.[2] This view is supported by invoking Articles 14 and 21 by the Principal Bench of Delhi CAT in *Dr. Subhash C. Sehgal vs Union Of India* [MANU/CA/0287/2006] by approving observations in a decision by a co-ordinate Bench in *Pratap Singh's Case*.[3] It deserves to be noted that the CS (MA) Rules has also been adopted by many organizations where even non-government servants or retirees are entitled to the benefit as benefits granted under their POLICY. [4]

II. Benefit accrues to the Petitioner, and other similar retirees, even under the Doctrine of Legitimate Expectation as it is judicially evolved and interpreted in scores of decisions including *Confederation of Ex-Servicemen Association v. UOI & Ors* AIR 2006 SC 2945 at p. 2954 paras 33- 36; Cf. *Secretary, State of Karnataka v. Umadevi* AIR 2006 SC 1806

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[2] (i) *Conf. of Ex-Servicemen Asso. v. UOI & Ors* AIR 2006 SC 2945; (ii**)** Regional P.F. Commissioner v. C. K. Nagendra Prasad ; (iii) *UoI v. Rameshwar Prasad* [(2013) 3 AIR Jhar R. 483]; (iv) *Kishan Chand vs. Govt. of N C T.* 210 (169) DLT 32; (v) *B.R. Mehta Vs. UoI* 79(1999) Delhi Law Times 388; (vi) *Dr. Subhash C. Sehgal v. Union of India*, CAT Delhi; (vii) *PratapSingh (Pensioner) v. Director, Subsidiary*. 2007 (2) SLJ 185 CAT. ; *Mahendra Pal v, Union of India & Ors* 117 (2005) Delhi Law Times 204 at para 14 & 15.

[3] "The decision of the Government now not to extend CS (MA) Rules to the pensioners is not reasonable. When serving Government servants are entitled to the medical reimbursement on the treatment incurred denying it to the pensioners I do not find any intelligible differentia or any nexus, insofar as reasonableness is concerned, with the object sought to be achieved."

[4] *K.K. Kharabanda vs. The Union Of India &Ors* [MANU/DE/0294/2009W.P. (C) 6049/2005

This doctrine seems to have inspired the provisions of Section 23C of the Supreme Court Judges (Salaries and Conditions of Services Act, 1958 that entitles the retired Hon'ble Judges for themselves and their families to the same facilities as respects medical treatment and on the same conditions as a retired officer of the central civil services class-I and his family.....". Their retirement brings about just a transition from one statutory arrangement (as the recipients of benefits under the All India Services Medical Attendance Rules, 1954) to another regime equally efficacious in terms of the said Section 23C as it stands interpreted in *Kuldip Singh v. Union of India* [J T 2002 (2) S C 506].

III. The Government of India (Allocation of Business) Rules, 1961 that entrusts constitutional duty to the Ministry of Health and F.W. The Rules framed under Art. 77(3) are mandatory in nature [(1988) 65 Cut. I,T, 697 (707) (DB). They prevail over the Industrial Undertaking Rules AIR 1983 Pat 293 [(1983) BBCJ (HC) 329 (DB).

The President of India has framed the Government of India (Allocation of Business) Rules, 1961.Its First Schedule specifies the 'departments', and its Second Schedule distributes subjects among the departments. One of the departments is the 'Department of Health and Family Welfare' under the Ministry of Health and Family Welfare'. Under the said Rules of Business, the President of India has assigned the subject pertaining to the Central Government Health Scheme (CGHS) to that Ministry.[5] The Government of India (Allocation of Business) Rules, 1961 has entrusted the responsibility of providing medical care to the Central Government Servants, to the Department of Health and Family Welfare, Ministry of Health and Family Welfare. It provides that the authorities are to provide to the specified beneficiaries "*Concession of medical attendance and treatment for Central Government Servants other than.....".*[6]

This *concession is not gratis*; it is for the services already rendered. *The New Shorter Oxford Dictionary* has illustrated concession with a very revealing sentence by Hobbes: "The Right whereby the Kings did rule was founded in the very *concession* of the People." This *concession* had been granted to the king as he protected the peace of the realm for the benefit of the People conceding him the power. The government servants have *earned* their rights to get 'comprehensive' medical treatment free of charge not only in view of the duties cast under Government of India (Allocation of Business) Rules, 1961, but also in view of their

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[5] At Sr. No. 14 of the list of business allocated to the Department of Health and Family Welfare, it provides as under:-

> *"Concession of medical attendance and treatment for Central Government Servants* other than (i) those in Railway Services (ii) those paid from Defence Service Estimates (iii) officers governed by the All India Services (Medical Attendance) Rules, 1954 and (iv) officers governed by the Medical Attendance Rules, 1956*"*

[6] The *Concession* means, to quote from Black's *Law Dictionary* (7th ed.): "1. A government grant for specific privileges. 2, The voluntary yielding to a demand for the sake of a settlement." *Collins Cobuild English Dictionary* explains *concession* thus:

> "1. A concession is 1.1 something that you agree to do or let someone else do or have, especially in order to end an argument or conflict. e.g. *The Prime Minister had been urged to make a concession by the Irish government....Ending the dispute was worth any concession*. 1.2 special right or privilege that is given to someone, e.g. *Foreign oil companies were granted concessions.* "

Fundamental Rights which oblige all authorities to administer this concession fairly and adequately.

It is important to note that a Central Government Servants remain even after retirement under certain measure of the Government control and discipline. It clearly follows from Rules 8 (Pension subject to future good conduct), and 9 (Right of the President to withhold or withdraw pension) of the Central Civil Services (Pension) Rules, 1972. Once the discipline can extend for 4 years even after retirement, it may, at the option of the President, extend to even 40 years after retirement! 'Pension' 'is dependent upon an additional condition of impeccable behaviour even subsequent to retirement." [*K.S.R.T.C. V. K.O. Verghese* AIR 2003 SC 3966]. The material point is this that the date of retirement does not cut off the government servants umbilical cord with the Government by a stroke. This Petitioner may be excused for making a plea by invoking *reductio ad absurdum.*

The pre-condition for the retirees to avail themselves of the benefit of comprehensive medical treatment is that they must be the beneficiaries under the CGHS after complying with the threshold requirements the fulfillment of which is evidenced, in this Petitioner's Case, by his valid CGHS card for life. This Card has been granted after receiving one-time payment. The benefits that travel to the retirees under this Card, accrue to him on account of the services rendered by the retirees over all the years till their retirement, and also the auto-limitations to which all retirees are subject even after retirement.

The Website of the Ministry of Health & Family Welfare describes the function of the CGHS in the following apt words:

> "The Central Government Health Scheme" (CGHS) provides comprehensive health care facilities for the Central Govt. Employees and pensioners and their dependents residing in CGHS covered cities.[7]

The Central Government Health Scheme [CGHS] and Central Services (Medical Attendance) Rules, 1944 [(CS (MA) Rules substantially intersect without being co-terminus in the Zone X of the above mentioned diagram.

2

The Profile of the X ZONE as it emerges from the reflections on the three intersecting Circles

1. The beneficiaries of the CS (MA) Rules, 1944 receive benefits under the said Rules till their retirement. The real problems crop up in the post-retirement phase:
   (a) The Government keeps on drawing attention to the Note 2 (iv) to Rule 1 of the CS (MA) Rules, 1944 that states that the said Rules do not apply to 'Retired Government Officials'. Such a plea has been off and on made before the Hon'ble Courts only to be rejected.[8]

[7] http:// msotransparent.nic.in/cghsnew

[8] (i) *Regional P.F. Commissioner v. C. K. Nagendra Prasad* ; (iii) *Union of India v. Rameshwar Prasad* [(2013) 3 AIR Jhar R. 483]; (iv) *Kishan Chand vs. GOVT. OF N.C.T.* 210 (169) DLT 32

(b) The effect of the judicial decisions has been to recognise two things:

(i) The retired officers are entitled to the benefit under the judicially evolved **Doctrine of Legitimate Expectation**;

(ii) The Courts recognised that the retired officers had acquired a status worthy to get judicial protection. " The status of a retired Government Employee was held to be independent of the scheme and rules in so far as the entitlememt to medical treatment and / or CGHS benefits were concerned.' [9]

II. As the CS (MA) Rules, 1944, is a statutory rule with mandatory effect, the rights and duties prescribed under it cannot be varied by administrative instructions or memoranda.[10]

IV. The institution of the CGHS grew over years not only as an institution to provide concession as bidden to do by the Government of India (Allocation of Business) Rules, 1961, but it has also waxed as a controlling institution for the CS (MA) Rules, 1944.

V. Various other public bodies adopted the CS (MA) Rules, 1944 for granting medical benefits to their employees of medical facilities on the CGHS model BUT on the terms and conditions of their POLICY as in *State of Panjab v. Ram Lubhaya Bagga* AIR 1998 SC 1703

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In the diagrammatic presentation aforementioned, this Petitioner's Case, when all is said, comes within the Zone X.

3

Beneficiaries of the X Zone : the holders of 'Status'

The Beneficiaries of X Zone hold certain STATUS[11] by virtue of which they are entitled to some special benefits. For protection of such interests such beneficiaries are the

[9] *B.R. Mehta v. UoI* 79(1999) DLT 388; *Kishan Chand vs. Govt of N.C.T.* 210 (169) DLT para 7.; *Union of India vs. Rameshwar Prasad* 2013 SCC Online Jhar 905 : (2013) 3 AIR Jhar R 483,

[10] *K. Kuppusamy And Another Versus State of T.N. and Others* (1998) 8 SCC 469; *Regional P.F. Commissioner v. C. K. Nagendra Prasad High Court of Karnataka at Bangalore* W. P. NO. 8995/2013 (S-CAT; *E.V. Kumar v. UoI* (2003 (4) CTC 29); *S. Jagannath v. UoI* (1997(2) SCC 87; *Dr. Subhas, h C. Sehgal vs Union Of India* [MANU/CA/0287/2006].

[11] "**Status.** 1. A person's legal condition. Whether personal or proprietary; the sum total of a person's legal rights, duties, liabilities, and other legal relations, or any particular group of them separately considered <the status of a landowner>. 2. A person's legal condition regarding personal rights but excluding proprietary relations <the status of a father> <the status of a wife>. 3. A person's capacities and incapacities, as opposed to other elements of personal status <the status of minors>. 4. A person's legal condition insofar as it is imposed by the law without the person's consent, as opposed to a condition that the person has acquired by agreement <the status of a slave>. "

persons of inherence, and the Central Government is the person of incidence under duty towards the holders of such 'status' . They shouldn't be confused with those who get the CGHS benefits from two other distinct protocols of entitlement:

(i) Administrative largesse that the Government provides as matters of POLICY DECISION, and

(ii) Contractual commitment for which the prescribed payment is the sole consideration.

In both the aforementioned situations, the beneficiaries do not hold 'STATUS'; and in the situations the beneficiaries are not entitled to receive benefits as a matter of right. And, without questioning the Government to extend CGHS benefits to persons other than the residents of the X Zone, this Petitioner submits that in terms of the prescription of duties cast on the Ministry of Health and F. W., the President of India, through the terms of The Government of India (Allocation of Business) Rules, framed under Article 77(3) of the Constitution of India, has got the CGHS established to provide medical services to the Government servants, both whiile in service, and after retirement.[12] It is for this reason that the Hon'ble Delhi High Court said at the very outset of its Judgement in *Prithvi Nath Chopra v. Union of India & Anr*, 111 (2004) DLT 190:

> " A welfare State like India is bound to provide the basic requirement of its citizens. Health care facility is an integral part of the same and the Central Government Health Scheme (CGHS) has been propounded for the benefit of the Central Government employees who should not be left without medical care after retirement."

"By the status (or standing) of a person is meant the position that he holds with reference to the rights which are recognized and maintained by the law – in other words, his capacity for the exercise and enjoyment of legal rights." James Hadley, *Introduction to Roman Law* 106 (1881).

Black's Law Dictionary, 7th ed. p. 1419

[12] "The Government of India (Allocation of Business) Rules, 1961 has entrusted the responsibility of providing medical care to the Central Government Servants, to the Department of Health and Family Welfare, Ministry of Health and Family Welfare. At Sr. No. 14 of the list of business allocated to the Department of Health and Family Welfare, it provides as under:-

"Concession of medical attendance and treatment for Central Government Servants other than (i) those in Railway Services (ii) those paid from Defence Service Estimates (iii) officers governed by the All India Services (Medical Attendance) Rules, 1954 and (iv) officers governed by the Medical Attendance Rules, 1956" Quoted from the Annual Report 2013-2014 (Chapter 13) on the Department of Health and Family & Welfare (see para 13 of the W.P.).

As the CGHS has failed to see in this Petitioner's case, and in many other Cases studied by the CAG, this Petitioner draws this Hon'ble Court's attention to certain judicial observations which are relevant in deciding this Petitioner's Case:

(a) in *S.K. Sharma v. UoI* [64 DRJ 620):

> "Learned counsel for the petitioner had contended that it is the status as a Central Government pensioner which is the material fact and not being a CGHS card holder specially since the petitioner was residing in Bareilly which is outside the CGHS area." (Para - 6)
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> "It is now settled law that a citizen of this country under the mandate of Article 21 of the Constitution of India does not only have a right for animal existence but a reasonable existence. Health service forms a very important part of existence of an individual. Government servants are provided by the benefit of medical aid as within the limited financial emoluments available to them they would be unable to meet large medical expenses which may arise in certain exigencies. The chances of seeking such medical aid increases as the years go by and a person gets older. In fact the better medical facility back-up is required at that age. **It is in these circumstances that a retired Government Officer is entitled to the benefit of the CGHS as he cannot be expected to have large financial capacity after retirement to meet exigencies of medical problems. There is thus force in the contention of learned counsel for the petitioner that the material factor is status of the person as the retired pensioner and not merely being the card holder of the CGHS scheme on payment of some nominal amount.**" (Para - 8) [emphasis supplied]
>
> "**The petitioner does not cease to be a Central Government pensioner merely because he is not covered by the CGHS scheme**." (Para - 12) [emphasis supplied]

(b) in *Suraj Bhan v. Government of NCT & Ors* [ILR (2010) IV DELHI 559 WP]

The Hon'ble Delhi High Court defined its jural and constitutional perspective thus:

> "**Under Article 21 of the Constitution of India, the State has a constitutional obligation to bear the medical expenses of Government employees while in service and also after they are retired.** Clearly in the present case by taking a very inhuman approach, these officials have denied the grant of medical reimbursement to the petitioner forcing him to approach this Court. The respondents did not bother even after the judgment of this Court was brought to their notice and copy of the same was placed by the petitioner along with the present petition." (Para 8) [emphasis supplied]

and, with reference to (i) *V.K. Jagdhari v. UoI* [125 (2005) DLT 636, (ii) *Govt of NCT of Delhi & Ors vs Som Dutta Sharma* [118 (2005) DLT 144 (DB), and (iii) *S.K. Sharma vs UoI & Anr* [2002 (64) DRJ 620 the Hon'ble Court "consolidated the legal position and held that" (in para 7):

> *"The position emerging from various decisions of this Court may be summarised as follows:*
>
> *1) Even if employee contributes after availing medical facilities,and becoming member after treatment, there is entitlement to reimbursement (DB) Govt. of NCT v. S.S. Sharma :118(2005)DLT144*
>
> *2) Even if membership under scheme not processed the retiree entitled to benefits of Scheme - Mohinder Pal v. UOI :117(2005)DLT204 .*
>
> *3)* ***Full amounts incurred have to be paid by the employer; reimbursement of entire amount has to be made****. It is for the Government and the hospital concerned to settle what is correct amount. Milap Sigh v. UOI : 113(2004)DLT91 ; Ran deep KumarRana v. UOI : 111(2004)DLT473* (emphasis supplied)
>
> *4. The pensioner is entitled to full reimbursement so long the hospital remains in approved list P.N. Chopra v. UOI, (111) 2004 DLT 190*
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> *5)* ***Status of retired employee not as card holder****: S.K. Sharma v.UOI, : 2002(64)DRJ620.:*
>
> *6)* ***If medical treatment is availed, whether the employee is a cardholders or not is irrelevant and full reimbursement to be given,*** *B.R. Mehta v. UOI : 79(1999)DLT388 .'*(emphasis supplied)
>
> ***The status of a retired Government Employee was held to be independent of the scheme and rules in so far as the entitlement to medical treatment and/or CGHS benefits were concerned*** *(ref. V.K.Gupta v. Union of India, : 97(2002)DLT337). Similarly in Narender Pal Sigh v. Union of India, : 79(1999)DLT358 , this Court had held that a Government was obliged to grant ex-post facto sanction in case an employee requires a specialty treatment and there is a nature of emergency involved."* [emphasis supplied]

4

Displeasure expressed at the ways of the CGHS in several decisions

(i) The Hon'ble Delhi High Court, in *Milap Singh's Case* 2005 (2) SLR 75, allowed full payment of the medical claim but indicted CGHS in words where what is suggested is more important than what the words convey on simplistic reading, It said in the very first paragraph of its Judgement:

> "This is one more case of a retired Government servant who has been refused reimbursement of the full medical expenses incurred by him despite numerous judgments on this issue. The respondents chose to act in complete violation of the principles of law laid down by various judgments negating the Central Government Health Scheme (hereinafter to be referred to as, `the CGHS'), which was propounded as

> a health facility scheme for 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, but the repeated cases which have come to the Court show every effort of the respondents to dilute the effect of the said Scheme. The respondents continue in their conduct, which is contemptuous in character, by continuing to deny such claims despite clear law enunciated on this point."

The Courts have noticed, with agony, the similar agonising plight of the pensioners in many of their decisions[13], and the CAG has documented in its Report on the Performance Audit of the Government of India No. 3 of 2010-11 in its Chapter on 'Reimbursement of Medical Claims to the Pensioners under CGHS'.[14]

(ii) in *Suraj Bhan v. Government of NCT & Ors* [ILR (2010) IV DELHI 559 WP]

> "It is quite shocking that despite various pronouncements of this Court and of the Apex Court the respondents in utter defiance of the law laid down have taken a position that the pensioner is not entitled to the grant of medical reimbursement since he did not opt to become a member of the said health scheme after his retirement or before the said surgery undergone by him. **It is a settled legal position that the Government employee during his life time or after his retirement is entitled to get the benefit of the medical facilities and no fetters can be placed on his rights** on the pretext that he has not opted to become a member of the scheme or had paid the requisite subscription after having undergone the operation or any other medical treatment. "[para 8] (emphasis supplied)

5

The Issues pertain to the constitutionality and justiciability of the impugned acts

This Petitioner raises in this Writ Petition only *justiciable issues* amenable to Judicial Review. It questions the actions which offend his fundamental rights, and transgresses the administrative norms judicially settled as the binding norms governing administrative decisions. The Supreme Court has held that "any act of the repository of power, whether legislative or administrative or quasi judicial is open to challenge, if it is in conflict with the Constitution or the governing Act or the general principles of the law of the land, or if it is so arbitrary or

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[13] Delhi H,C, in *Milap Singh's Case* [2005 (2) SLR 75], *Kishan Chand v. Govt. of N.C.T. &Ors* [2010 (169) DLT 32], *K.K. Kharabanda vs The Union Of India &Ors* [MANU/DE/0294/2009W.P. (C) 6049/2005]; the Madras High Court in *C. Ganesh's Case*[13] [(2012) 5 Mad LJ 257]; the Jharkhand High Court in *Union of India v. Rameshwar Prasad* [(2013) 3 AIR Jhar R. 483.

[14] The CAG on the Performance Audit of the Govt. of India No. 3 of 2010-11. (Annexed with the W.P.)

unreasonable that no fair minded authority could ever have made it" (*Shri Sita Ram Sugar Co. Ltd. v. Union of India,* AIR 1990 SC 1277, 1297)

It is submitted that this Petitioner's grievances . are not against the Govt's policy but raise issues relating to constitutionality and the justiciability of the Government's impugned acts. The residents of the X Zone, it is submitted, are not the beneficiaries of the Government's POLICY to provide some help to the Central Government servants, but are entitled to receive comprehensive medical care, and full reimbursement of the medical expenditure incurred. The Hon'ble Delhi High Court, in *K.K. Kharbanda vs The Union Of India &Ors* [W.P. (C) 6049/2005] drew attention to Rule 3 of CS (MA) Rules, 1944, and observed " On perusal of the CS (MA) Rules, 1944, it is manifest that no ceiling limit has been imposed by the Government under the said Rules."

It is worthwhile to mention the cases of the beneficiaries of the X Zone are distinct from the Cases which our Supreme Court had considered in . *State of Punjab and Others v. Ram Lubhaya Bagga* AIR 1998 SC 1703, or . *State of Punjab & Ors. v. Mohan Lal Jindal* (2001)9SCC217 where grant of the facility of medical reimbursement is just a matter of Government POLICY, not by way of recognition of some legally protected interests as is the case of the residents of the X Zone. These cases are relevant in this Writ Petitioner's case only on one point: what is appropriate in the cases of Emergency esp. of Type 2 and Type 3.as discussed in the Writ Petition.

6

Factors which create and foster the legally protected interests in X Zone

In short, these factors are summarised as under:

1 The provisions of the CS (MA) Rules 1944 read in the context of our Constitution's provisions, and under the footlights generated by our Constitution.

2. The protected interests constitute 'STATUS', and entitle the residents of the X Zone to the benefits accruing to them by virtue of holding that status both while in service and after retirement.

3. The factors mentioned at (1) and (2) invest in the residents of the X Zone to the benefits under the judicially evolved Doctrine of Legitimate Expectation as explained in *Confederation of Ex-Servicemen Association & Ors v. UOI & Ors* AIR 2006 SC 2945 (para 32 and 33), wherein our Supreme Court has set out the parameters of the Doctrine of Legitimate Expectation thus

> " Under the said doctrine, a person may have reasonable or legitimate expectation of being treated in a certain way by an administrative authority even though he has no right in law to receive the benefit. In such situation, if a decision is taken by an administrative authority adversely affecting his interests, he may have

justifiable grievance in the light of the fact of continuous receipt of the benefit. legitimate expectation to receive the benefit or privilege which he has enjoyed all throughout. Such expectation may arise either from the express promise or from consistent practice which the applicant may reasonably expect to continue": [emphasis supplied]

4. The effect of the Government of India (Allocation of Business) Rules, 1961, framed under Article 77(3) of the Constitution of India discussed in [vide para 13-15 at pp. 19-22 of the W.P.]

7

Whilst the Prime Issues, emerging in this W.P. would be highlighted in Part 3, it is worthwhile to mention the following material points as an apt prelude to emphasise why this Petitioner, in his 78th year of his life, considers it his duty, even after a cerebral stroke and a paralytic attack, towards himself and towards all other retired Government servants who suffer, tongue-tied, the administrative remissness of the CGHS that violate their Fundamental Rights under Articles 14 and 21 by subjecting them to harassment in getting the rightful benefit of medical reimbursement. This Petitioner's own grievance might have made him just suffer his distress and harassment with tongue-tied patience in the evening of his life, but on reading the CAG's Report on the "Reimbursement of Medical Claims to the Pensioners under CGHS"[15], he has considered it his duty to bring to this Hon'ble Court's notice the story of his woes so that justice is done to him, and something is also done for the weal of other suffering souls about whom the CAG has written in the said Report..

The Hon'ble Supreme Court had considered in 2000, on a Writ Petition, in *K.P. Singh v. Union of India & Ors* [(2001) 10 SCC 167] the objections regarding the manner in which the CGHS treated ailing pensioners. This Hon'ble Court was pleased to issue certain directions. But a perusal of the CAG's said Report, and the facts of this Writ Petition would convince the Hon'ble Court that precious nothing has been done over all the years after *K.P.Singh's* judgement to improve "the manner in which the Central Government Health Scheme (CGHS) treats ailing pensioner." (quoting the very first sentence of the said Judgement). *K.P. Singh's Case* contemplates situations pertaining to Type I emergency where destiny grants sufficient time and opportunity to approach the CMO. This procedure was appreciated by the Court as it had been humanised by the administrative commitment to accord *ex post facto* approval to promote justice, and remove hardship. What can happen in Type II, or III Emergency was not even considered. It refers to the approved rates/package deal that has become a convenient device to deprive the CGHS beneficiaries of their legitimate claims without considering the following points:

(i) That through the device of rate fixation, the CGHS can go on reducing the quantum of medical reimbursement making it unrealistic and unjust, even driving this beneficial provision to its vanishing point..

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[15] Report of the CAG on the Performance Audit of the Government of India No. 3 of 2010-11

(ii) That it is unrealistic, cruel and unjust to deprive, or even reduce, the reimbursement of claims when the treatment is undergone in Type II, or III, Emergency. In these situations, whatever expenditure is incurred on the procedure for treatment of, and implants done on the patients, in exercise of the doctor's own professional judgement, must be honoured; and the expenditure incurred by the patients deserve to be fully reimbursed. This Petitioner has drawn attention to the grammar of medical decisions made in such situations in his Grounds 17-28 of the W.P. " Apropos the implant of CRT-D, and the reimbursement of its cost."

True, in some Cases, after the drudgery of a long litigation some retired persons got relief from this Hon'ble Court [as *in Suman Rakheja* v. *State of Haryana* (2004) 13 SCC 562], but the fact remains that this Hon'ble Court's *cri de Coeur* in *K.P. Singh's Case* stands still unredressed as is grossly illustrated by this Writ Petitioner's own story of owes, and the graphic account of distress of many other pensioners set forth in the CAG's Report (esp. through the exposition of the 7 Case Studies[16]). If is this Petitioner's Destiny wouldn't have kept him alive for more time to hold this inquest on the acts of the CGHS before this Hon'ble Court, even his own lurid story of sufferings would have become a candidate for the 8th Case Study in some future CAG Report. It is most respectfully submitted that this Hon'ble Court did not take into consideration the implications of the different segments of the operation of the CGHS as expressed through the diagrammatic presentation made at the outset of this Note. This Petitioner's case, as also of the retired Judges contemplated by Section 23(3) of the Supreme Court Judges (Salaries and Conditions of Services) Act 1958, come within the Zone X of the diagrammatic presentation

In *K.P. Singh's Case, this* Hon'ble Court was partly satisfied by the Government's assurance that it possessed power to relax the rigour of the rules which stand in the way of doing justice in individual cases.. But both the CAG Report, above mentioned, and this Petitioner's own Case, would show that nothing material has taken place despite the just judicial *crie de coer* made almost more than 15 years back!.

16

Cases studied by the CAG	**Lapses noticed**	**Pages in the CAG Report**	**The pages in this W.P.**
Case study - 1	Negligent handling of files leading to failure to grant permission to a pensioner, who died without getting the recommended treatment	At p. 49 of 'the CAG's the Report	250
Case Study 3	Unnecessary clarification leading to delay of more than four years	At p. 55 of the Report	256
Case Study 4	Lack of effective initial scrutiny and delay in communication of requirement of documents led to pendency of a claim for more than eight years	At p. 55 of the Report	256-257
Case Study 6	Suspected use of extraneous favour in settlement of medical claim	At p. 61 of the Report	262
Case Study 7	Undue rejection of medical claim	At p.63	264

In *Justice Kuldip Singh's Case* [JT 2002 (2) S C 506], the Writ Petition had been disposed of in favour of the Petitioner on the strength of the statement of the Attorney General, made before the Hon'ble Court: to quote from the Judgement,

> " according to the provisions of the central government health scheme rules... *there is a power of relaxation* contained in the said rule which would enable a CGHS card-holder to ask for relaxation on his getting treatment from a private hospital or a doctor. *It is, therefore, not as if it is compulsory for the CGHS card-holder to invariably go only to a government hospital*." (italics supplied)

Yet the CGHS has not shown similar clemency in this Petitioner's Case, as it has not shown that towards many other retirees whose plight is stated in the CAG's Report illustrated by the 7 Case-Studies demonstrating cynicism and arbitrariness endemic in the CGHS. This humble Petitioner's own Case would show that the milk of human kindness is wholly gone. It has not cared even to listen to judicial comments so aptly made in several Cases.[17] The Hon'ble Delhi High Court, in *Milap Singh's Case* 2005 (2) SLR 75, allowed full payment of the medical claim but indicted CGHS in words where what is suggested is more important than what the words convey on simplistic reading, It said in the very first paragraph of its Judgement:

> "This is one more case of a retired Government servant who has been refused reimbursement of the full medical expenses incurred by him despite numerous judgments on this issue.."

8.

The Facts and the Main ISSUES of this Writ Petition

This Petitioner had his first heart attack in 1989, he, at the instance of the CGHS, was treated at Apollo Madras, and at the Escorts Heart Hospital & Research Centre in Delhi over all the years thereafter through several rounds of angioplasty and angiography leading to the hospitalization in emergency conditions at the Escorts Hospital in November 2013 when he was taken to the hospital, nearest to the place when he was struck by cerebral stroke, by his daughter. A team of cardiologists examined him in holistic perspective and decided to subject him to the procedure of the CRT-D implant surgery done on November 11, 2013.This implant was done as this device is takes care of heart failure judged imminent on account of the fast worsening medical parameters of this Petitioner's heart documented in his Medical History annexed to the Writ Petition as P-10. After a month, he went to Mumbai to see his daughter, but on the date of his arrival itself he was struck with a severe stroke, and suffered a serious onset of right side paralysis. At 11 night he was shifted by ambulance to the nearby super-speciality Jaslok Hospital in conditions of disorganization, and senselessness. He was treated at Jaslok, and could recover in a year's time to appear before this Hon'ble Court as a Petitioner to seek justice.

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[17] Delhi H,C, in *Milap Singh's Case* [2005 (2) SLR 75], *Kishan Chand v. Govt. of N.C.T. &Ors* [2010 (169) DLT 32], *K.K. Kharabandavs The Union Of India &Ors* [MANU/DE/0294/2009W.P. (C) 6049/2005]; the Madras High Court in *C.Ganesh's Case*[17] [(2012) 5 Mad LJ 257]; the Jharkhand High Court in *Union of India v. Rameshwar Prasad* [(2013) 3 AIR Jhar R. 483.

He submitted his medical Bills to the CGHS. . The treatment that this Petitioner's claims received from the CGHS is demonstrated by the facts set forth in the following table:

Bills submitted on	**Amounts of Paid by the CGHS**	**Amounts outstanding even now**
(a) Bill for treatment at the Escorts Heart Hospital, New Delhi, submitted on January 01, 2014 for Rs. 986343	Rs. 490000 paid on 31 March 2015	Rs. 496343
(b) Two Bills for treatment at Jaslok Hospital, Mumbai, submitted on July 19, 2014 for Rs. 398097	Rs, 94885 paid on 25 August 2014	Rs. 303212
	Amount wrongfully denied	**Rs. 799555.**

The partial payment of the claim for the treatment at the Escorts Heart Hospital was made after 15 months of the submission of the Claim papers, and after several rounds of the knockings at the gate of the authorities. First the Standing Committee of the CGHS rejected this Petitioner's claim twice without hearing the Petitioner, and without hearing him on what stood against his claim. With an indefatigable courage, believing in 'Satyameva Jayte', this Petitioner pursued his claim by submitting, first, a Representation addressed to the Secretary to the Ministry of Health & Family, to which the President of India had allotted the duty to provide health care facilities to the Central Government Servants under the Government of India (Allocation of Business) Rules, 1961, framed under Article 77(3) of the Constitution of India; and then he submitted a memorial addressed to the Director General of the CGHS. The partial payment on the Bills has been made, after this Petitioner's vexatious experience.

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As things stand now:

(I) The CGHS has held this Petitioner's contentions as to treatment, under EMERGENCY medical conditions at the Escorts and the Jaslok, GENUINE as the CGHS has already made part payments on the Bills submitted by this Petitioner.[18]

[18] (a) " In the context of a heart problem, the doctrine of necessity would require the patient to be rushed to the nearest hospital without any loss of time so that the patient can be rescued." *UoI vs. J.P.Singh*: [2010 LIC 3383 para 15.

(II) The CGHS has already granted ex *post facto* approval to validate this Petitioner's claims, otherwise even the part payments could not have been made..

(III) This Petitioner was never heard before passing such adverse orders which allowed claims only partially.

(IV) No order has been communicated to this Petitioner to help him comprehend the reasons which stood in the way of the grant of this Petitioner's full claim for medical reimbursement.

This Petitioner-in-person impugns the orders of the CGHS on grounds including these:

(1) The impugned decisions go counter to the provisions which permit the availing of medical treatment under Emergency

(i) Under Rule 6 (b) of the CS (MA) Rules, 1944;

(ii) Under the administrative instructions,[19] read under the judicially mandated norms.[20]

(iii) Under the Doctrine of Necessity operative under the duress of circumstances to save life, or to ward off threatened fatal blow.[21]

(2) The impugned decisions go counter to the norms universally accepted to govern the protocol of DUTIES of the doctors attending to patients under their medical emergency.[22]

(b) "These reasons cannot be appreciated in view of the settled position that the petitioner is entitled to take recourse to an emergency treatment in any area if the circumstances and nature of disease so warrant." [*Narendra Pal Singh v. UoI* [1999 (4) SLR 648 para 5]

(c) " The Government was obliged to grant *ex post facto* sanction in case an employee requires a speciality treatment and there is a nature of emergency involved. In such a situation, treatment in a non-recognized hospital and non-observance of prescribed procedure and incurring expenditure in excess of CGHS package/approved rates have to be condoned." [*V.B. Jain Vs. Chief Executive Officer*, (Central Administrative Tribunal Principal Bench, New Delhi O.A. No. 2954/2012)

(d) " Some of the serious diseases do not knock or warn through bell giving them time. Emergency cases require immediate treatment and if with a view to comply with procedure one has to wait then it could be fatal. One may not in such cases live, if such a procedure is strictly followed." *State of Panjab v. Ram Lubhaya Bagga* AIR 1998 SC 1703 para 17.

[19] Office Memorandum No. 4-18/2005- C&P [Vol. -Pt. (I)] of the Ministry of Health and Family Welfare CGHS (P) Division, dated 20th Feb., 2009, reiterated by the Office Memorandum No. H. 11022/01/2014-MS of Ministry of Health and Family Welfare dated 15th July, 2014. providing guidelines to be followed in considering requests for relaxation of procedures in *considering requests for medical reimbursement over and above the approved rates.* Also Swamy's *Compilation of Medical Attendance Rules* at page 297 vide Annex P- 14 (a) & (b).

[20] *"It is also not in dispute that various instructions have* been issued under the scheme from time to time..... But, what should happen in the case of emergency? Neither a policy nor a circular has been shown to us which deals with the said situation. .... Now, when would ill luck strike a person? Nobody can predict." *UoI vs. J.P.Singh* [2010 LIC 3383 para 4-5]

[21] "It is settled law that the doctrine of necessity comes into play where there is no express legal rule on the subject and there is a compelling urgency." *UoI vs. J.P.Singh* ; *Narendra Pal Singh vs. Union of India & O*rs [1999 (79) DLT 358 para 3]; *Willer's Case* (1986) 83 Cr. App.R. 222 C.A.

[22] The International Code of Medical Ethics, promulgated by the World Medical Association (*Encyclopedia Britannica*, Vol.23p. 823); Swamy's *Compilation of Medical Attendance Rules* at page 297; *Parmanand Katara v. UoI* AIR 1989 SC 2039

The Madras High Court, in *C Ganesh v. Central Administrative Tribunal*, quoted with approval what it had observed in *E. Ramalingam v. The Director of Collegiate Education* (2007 Writ L.R. 1073:

> "It is acceptable to common sense, that ultimate decision as to how a patient should be treated vests only with the Doctor, who is well versed and expertised both on academic qualifications and experience gained. Very little scope is left to the patient or his relative to decide as to the manner in which the ailment should be treated.
>
> Court cannot brush aside the advancement in modern medical treatment. Speciality Hospitals are established for treatment for specified ailments and services of Doctors specialized in a discipline are availed by patients only to ensure proper, required and safe treatment. Can it be said that taking treatment in Speciality Hospital by itself would deprive the beneficial order of the Government, solely on the ground that the said Hospital is not included in the Government Order. It cannot be so, as the Government Order should be read keeping the purpose for which the same was issued. The right to medical claim cannot be denied merely because the name of the hospital is not included in the Government Order. The real test must be the factum of treatment. Before any medical claim is honoured, the authorities are bound to ensure as to whether the claimant had actually taken treatment and the factum of treatment is supported by records duly certified by Doctors/Hospitals concerned. Once, it is established, the claim cannot be denied on technical grounds as found in the impugned order. Writ Petition allowed."

(3) The impugned decisions question, without complying with the Rules of Natural Justice and Fairplay, the medical judgement of eminent doctors at eminent hospitals recognised under the Indian Medical Council Act.[23]

(4) The impugned orders violate, by not giving an opportunity of being heard, not only the proviso to Rule 3(2) of the CS (MA) Rules 1944, but also negate the Article 14 of our Constitution as the impugned decisions are grossly unjust and arbitrary, and violative of Article 14, said to be the constitutional guardian of principles of natural justice.

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[23] (a) Padam Bhushan Dr. Ashok Seth, FRCP, FACC, FESC, FSCAI, FCSI, D. Sc. (Honoris Causa), D.Litt. (Honoris Causa) currently Chairman of Fortis Escorts Heart Institute, New Delhi and Head, Cardiology Council of Fortis Group of Hospitals; (b) Dr. T. S. Kler, Executive Director of Department of Cardiology, Director of Cardiac Arrhythmia Services Fortis Escorts Heart Institute & Research Centre.; (c |) Dr Aparna Jaswal is an acknowledged expert in the field of cardiac pacing and electrophysiology including catheter RF ablation of complex arrhythmias; (d) PadmashriDr. Balbir Singh is a prominent Cardiologist; renowned both nationally and internationally; (e) Padmashri Dr A. B. Mehta, the Director of Cardiology at the Jaslok Hospital, Mumbai.

(5) The impugned orders deny wrongfully the full reimbursement[24] of the medical claims of the Petitioner without hearing him, and also without telling him reasons for such orders. This sort of decision-making contravenes settled judicial norms.[25]

(6) The impugned decisions tend to **override/** evade judicial directions despite the settled norms that no administrative orders/instructions cannot override, or evade, the law as judicially declared.[26].

(7) The impugned decisions ignore the settled view that the pre-fabricated Rates or Package Rates do not apply in medical emergency as to so is *ex facie* arbitrary and unrealistic. As in such situations "treatment in a non-recognized hospital and non-observance of prescribed procedure and incurring expenditure in excess of CGHS package/approved rates have to be condoned." *V.B. Jain v. The Executive Officer, Delhi Jal Board [Paper Book p. 130 at p.132]*. *In Surjeet Singh v. State of Punjab AIR 1996 SC 1388* THE Supreme Court held that a person is entitled to take steps for self-preservation and does not have to stand in a queue before the authorities for prior approval. But this point is academic as by paying part of the Bill, (and by not providing reasons why the whole claim is not honoured, the CGHS is contradicting its own position with gross unfairness.

(8) The impugned decisions are unjust and arbitrary as even after accepting that this Petitioner's treatment was GENUINE, and the Expenditure incurred was real, yet the Government chose not to exercise power that it had acknowledged to possess by filing an affidavit before this Hon'ble Court in *Justice Kuldip Singh's Case:* the power that the Central Government derived from Sections Sub-section (5) of Section 241 of the Government of India Act, 1935, operative after Independence in terms of the Article 372 of the Constitution , empowering the Government " to deal with the case of any person serving His Majesty in a civil capacity in India in such manner as may appear to him to be just and equitable".[27]

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[24] "Reference is also invited to a decision of a Coordinate Bench of this Court in Civil Writ No. 53171999 titled *M. G. Mahindru v. Union of India and Another*, decided on 18.12.2000, wherein the learned Single Bench relying on the decisions of *Narendra Pal Singh v. Union of India* and *Other*s, 79 (1999) DLT 358, as well as *State of Punjab and Others v. Mohinder Singh Chawla* etc., JT 1999 (1) SC 416, directed reimbursement of the full expenses incurred." V. Gupta v. UoI 97 (2002) DLT 337 (Para-7)

[25] *Milap Singh v. UoI* 2004 (113) DLT 91; *Daljit Singh v.. Govt. of N.C.T. Of Delhi* 2013 (199) DLT 24; *J,C, Sindhwani v. UoI* 124 DLT 513; *Bodu Ram Jat v. State of Rajasthan* (2006) 5 SLR 705

[26] *K. Kuppusamy v. State of T.N.* (1998) 8 SCC 469; *Regional P.F. Commissioner v. C. K. Nagendra Prasad High Court of Karnataka* W. P. NO. 8995/2013 (S-CAT; *E.V. Kumar v. UoI* (2003 (4) CTC 29); *S. Jagannath v. UoI* (1997(2) SCC 87; *Dr. Subhash C. Sehgal vs UoI* [MANU/CA/0287/2006]; *.S.K. Sharma vs Union of India* 64 DRJ 620

[27] "The absence of a similar provision in the Constitution created some doubt as to whether such inherent power is not enjoyed by the President. In order, therefore, to remove any doubts and to make the position in this respect clear, the rule was promulgated in the Ministry of Home Affairs Notification No. 108/54-Ests.(A), dated the 20th November, 1954 (Decision No. 1 above), making express provisions on the lines of sub-section (5) of Section 241 of the Government of India Act, 1935."

[http://www.persmin.gov.in/DOPT/EmployeesCorner/Acts_Rules/CCSRules_1964/ccs_conduct_rules_1964_details.htm#02. Definitions]

The impugned decisions negate/invade this Petitioner's Fundamental Rights under Articles 14 and 21, and also subvert the judicially recognised **Doctrine of Legitimate** Expectation as explained by this Hon'ble Court in *Confederation of Ex-Servicemen Association & Ors v. UOI & Ors* AIR 2006 SC 2945, esp. Paragraphs 33-36.

9

This Petitioner's over-arching submissions

The Writ Petitioner feels his grievance is not only against the Government's violations of/ or indifference to his Fundamental Rights under Articles 14, and 21, but also against the blatant breach of the mandatory requirements of compliance with the Rules of Natural Justice which, in effect, has been aptly considered by this Hon'ble Court as a mandatory requirement emanating from a liberal interpretation of Articles 14 and 21 of our Constitution[28] as "it has become an implied principle of the rule of law that any order having civil consequences should be passed only after following the principles of natural justice"[29]

It is most humbly submitted that this Hon'ble Court may be pleased to exercise its Jurisdiction under Articles 32 and 142 of our Constitution so that this Petitioner's Fundamental Rights under Articles 14 and 21 are protected and promoted by reimbursing his medical expenditure, already incurred by him, under genuine emergency, and also something positive is done to improve the lot of similar other retirees whose plight has been so graphically portrayed by the CAG on 'Reimbursement of Medical Claims to the Pensioners under CGHS. Both the CS (MA) Rules, 1944, and the Articles 14 and 21 command the authorities not to take decisions adverse to someone without hearing him. In deciding this Petitioner's Case, these norms have been ignored deliberately as the authorities have convinced themselves that they are under no such duty as is evident from 2 things viz.:

(i) the fact that all the impugned decisions were made without hearing this Petitioner in utter breach of the Rules of Natural Justice; and

(ii) the wrongful omission of the Proviso to the Rule 3(2) of the CS (MA) Rules, 1944, as it is seen on its text on the Website of the Ministry of Health.

The CGHS and the authorities of the Ministry of Health & Family Planning erred in NOT complying with the Rules of Natural Justice not by oversight, or mistake but deliberately suggesting gross BIAS at work. The text of the CS (MA) Rules 1944, as we get on the website of the Ministry of Health and Family Welfare, has omitted the Proviso to the Rule 3(2) of the CS (MA) Rules 1944: vide the text as it is at http://www.mohfw.nic.in/index1.php?lang=1&level=1&sublinkid=1872&lid=1704

and again at http://www.mohfw.nic.in/showfile.php?lid=1782.

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[28] *Union of India v. Tulsiram Patel* AIR 1985 SC 1416; *Olga Tellis v. Bombay Municipal Corp*. (1985) 3 SCC545, pp. 577-84

[29] *Raghunath Thakur v. Bihar* AIR 1989 SC 620 at p. 62

True, the text on the internet, bears in its title the expression 'in brief' but that does not lessen the sinister effect of the omission of the Proviso to the Rule 3(2) of the CS (MA) Rules 1944. This omission might have misled the CGHS and the authorities of the Ministry of Health to believe that they were under no duty to hear this Petitioner, or even to communicate reasons seeking response before arriving at adverse decision against this claimant. Such an omission cannot be a mere mistake: more so when the CGHS believes that its decisions cannot be questioned[30].

This Petitioner is aggrieved with the authorities as they have arbitrarily reduced the sums payable to him by way of the reimbursement of medical expenditure already incurred under emergency. This arbitrariness on their part has done great injustice to this Petitioner. Whatever is arbitrary is violative of Article 14 of the Constitution of India, This Hon'ble Court has aptly said:

> "Article 14 strikes at arbitrariness in State action and ensures fairness and equality of treatment. The principle of reasonableness, which legally as well as philosophically, is an essential element of *equality or non-arbitrariness pervades Article 14* like a brooding omnipresence."

All the decisions which this Petitioner has impugned in this Writ Petition were taken without informing the Petitioner what stood against this Petitioner's claims, and without seeking from him any clarification on any point. In short, the decisions, against which this Petitioner is aggrieved, were wholly arbitrary and irrational. .

The authorities, who decided these impugned decisions, failed to appreciate that this Petitioner was entitled to the benefit claimed even under the **Doctrine of Legitimate Expectations**. the reach of which has been thus stated by our Supreme Court in para 35 of *Confederation of Ex-Servicemen Association & Ors v. UOI & Ors* AIR 2006 SC 2945.

This Petitioner submits that the issues raised in this Writ Petition are of great importance for retired persons most of them treated even in their families as hated burden. Their pang increases when their own Government, whose heat and burden they bore for decades, treats them so unfairly. The CAG's Report, above mentioned [**Annex P--12**], and the Case Studies (**Annex P-12 at pp. 250-**264**)** would show how their model employer allows the creation of conditions under which old age is made to totter for long striving to get their legitimate claims settled sans dignity as if they were a lot of vexing beggars trying to steal the resources of the Government!

10

The impugned decisions violate Articles 14 and 21 of the Constitution

Violates Art. 14 of the Constitution

[30] " On behalf of the respondent No. 1 it is argued that the petitioner is governed by the CCS (MA) Rules, 1994, of which the Rule 8 states that that the decision of the Government as to Medical Attendance for treatment is final...." [*Daljit Singh v.. Govt. of N.C.T. Of Delhi* 2013 (199) DLT 24 para 2]

(i) As the impugned decisions are in breach of the Rules of Natural Justice mandated by Section 3(2) of the CS (MA) Attendance Rules 1994, and the Art. 14 of the Const of India, so they are arbitrary..

(ii) As the impugned decisions are arbitrary and unreasonable as they have been made contrary to our law and the Constitution; they deserve indictment under the principle stated in *Ajay Hasia's Case* (AIR1981 SC 487) that " Article 14 strikes at arbitrariness in State action and ensures fairness and equality of treatment. The principle of reasonableness, which legally as well as philosophically, is an essential element of equality or non-arbitrariness, pervades Article 14 like a brooding omnipresence."

(iii) As the impugned decisions have been made without appreciating the imperatives of the treatment under Emergency when the Doctrine of Necessity operates, the impugned decisions are both arbitrary and unreasonable.

(iv) As the impugned decisions violate Article 14 of the Constitution as they

(a) Arbitrarily discriminate between the Government servants in service and those retired though for the purposes of medical treatment they constitute only a common class.[31]

(b) Arbitrarily discriminate between one set of retirees from a different set of retirees {being the retired Judges of the Supreme Court, who too are entitled "to the same facilities as respects medical treatment and on the same conditions as a retired officer of the central civil services class-I and his family" [vide Section 23C of the Supreme Court Judges (Salaries and Conditions of Services) Act, 1958}..

(v) As the impugned decisions negate the Doctrine of Legitimate Expectation having the effect of granting judicial protection to the accrued and legally protected interests, they are arbitrary and unreasonable.

(vi) As the impugned decisions reveal that our Government is yet to give effect to ths Hon'ble Court's observations in *K.P. Singh's Case*, a Writ Petition decided by the Supreme Court in 2000 [(2001) 10 SCC 167], and as our Government has not shown to the other retirees (as demonstrated by the facts in this Petitioner's W.P. and also in the CAG's Report on the plight of other retirees] the magnanimity that it showed before this Hon'ble Court in *Justice Kuldip Singh's Case* [JT 2002 (2) S C 506, the impugned decisions are unfair and unjust, unreasonable and arbitrary].

<u>Violate Art. 21 of the Constitution of India</u>

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[31] "The decision of the Government now not to extend CS (MA) Rules to the pensioners is not reasonable. When serving Government servants are entitled to the medical reimbursement on the treatment incurred denying it to the pensioners I do not find any intelligible differentia or any nexus, insofar as reasonableness is concerned, with the object sought to be achieved." *Dr. Subhash C. Sehgal vs Union Of India* [MANU/CA/0287/2006] approving observations in *Pratap Singh's Case* [P.B. page 96 para 33]

(i) Right to Life: In *State of Punjab &Ors. v. Mohan Lal Jindal*, (2001) 9 SCC 217 : JT 1997 (1) S.C. 416, the Government was held to be under a constitutional obligation to reimburse the expenses since the right to health is an integral to the right to life, The Right to life includes the right to health *Punjab v. Mahinder Singh Chawla* AIR 1997 SC 1225/; also Narendra Pal Singh [P.B. page 125 at p.128.

(ii) Right to comprehensive treatment and entitlement to get FULL reimbursement. Rule 3 and 6 of the CS (MA) Rules, 1944; and r the Doctrine of Legitimate Expectation, protect this right.

(iii) Article 21 requires that nothing be done which can jeopardise anyone's life, or threaten anyone in the enjoyment of life that, to say the obvious, includes recovery from illness..

(iv) The impugned decisions wrongfully and arbitrarily ignore to consider the grammar of medical decision-making under Emergency; wrongfully ignore the decision of the eminent doctors attending to the patent under medical emergency; wrongfully reduce the quantum of reimbursement on administrative instructions though it is judicially settled that they cannot dilute or negate the rules, and the judicially declared principles.

11

The Two Dimensions of this W.P.

Worse than my counts of agony presented in this W.P. are those of other unfortunate retirees from the Government Service whose stories of distress caused by the remissness on the part of the CGHS, are told, with graphic details, and illustrated with specific Case Studies, in the CAG'S Report on the 'Reimbursement of Medical Claims to the Pensioners under CGHS'. [ANNEX P-12] Its perusal has made this Petitioner-in-person bring to this Hon'ble Court, through this Writ .Petition the morbid conditions which defile our public administration. Hence this Petitioner adopts in this W.P. a broad spectrum presentation highlighting its two dimensions: *adversarial* as (it presents this Petitioner's own case); and *inquisitorial* (as it has an evident PIL dimension) trying to bring to the Hon'ble Court's notice the shabby treatment that the retired persons receive, in the evening of their life, from who had been their model employer). It is felt that this Hon'ble Court would grant of relief to this Petitioner, and also declare norms & issue directions so that justice is done to all the retirees sailing in the same boat. In short, this Petition illustrates what someone had said: while persons laugh diversely, they suffer alike.

12

Invocation to the Jurisdiction under Article 32 of our Constitution

This Hon'ble Court may exercise its jurisdiction under 32 of our Constitution for reasons set forth in Part II of the W.P. (pp 7-16). It is submitted that this Hon'ble Court may exercise its said jurisdiction to provide a remedy against the impugned decisions which violate this Petitioner's Fundamental Rights, and the principles of natural justice; which are without the authority of law and without jurisdiction; and which have made this Writ Petitioner raise important questions of the interpretation of statutory rules which it is in the public interest to decide speedily.

13

Table of ISSUES in this W.P.

Issues presented in this W.P. are thus tabulated for a glance (followed by CONCLUSION at pp. 97-99, and PRAYERS at p. 100 of this W.P.).

Number	**ISSUES apropos which Grounds are advanced**	**Grounds in the W.P.**	**Pages in the W.P.**
A	Apropos ISSUE 1: Emergency & concomitant issues	Grounds 1 to 9	45-52
B	*Ex post facto* sanction and the Relaxation of Rules: Power when coupled with duty	Grounds 10 to 12	52-55
C	The Ambit of Relaxation of procedure under Emergency: Government's existing Instructions	Grounds 13 to 16	55-57
D	Apropos the implant of CRT-D, and the reimbursement of its cost	Grounds 17-28	57-69
E	Apropos the Carelink monitoring system: its justification	Grounds 29	70
F	Treatment at the Jaslok Hospital under the stress of stroke and paralysis	Grounds 30-32	71-72
G	. Breach of the Rules of Natural Justice in arbitrarily disposing of all the claims for reimbursement of expenditure already incurred	Grounds 33-38	72-78
H	Apropos the rating of the CGHS Rates, & an attempt to unstring the 'CGHS Packet Rates'	Grounds 39-45	78-83
I	Apropos this Petitioner's entitlement to higher standard of treatment	Grounds 46-47	83-85
J	Apropos the Petitioner's entitlement to 'Comprehensive treatment' and 'full reimbursement'	Grounds 48-49	85-88
K	Apropos the Constitutional Grounds	Grounds 50-53	88-91
L	The Doctrine of legitimate expectation	Grounds 54	91

M	The denial of claims is arbitrary, unreasonable, and offends Article 14 of the Constitution	Ground 55	92-92
N	Two decisions of the Hon'ble Supreme Court	Ground 56	93-95
O	The impropriety of the impugned decisions become shocking when read in the light of the CAG Report	Grounds 57-58	9597

PART – 'B'

APPENDIX TO WRITTEN SUBMISSION dated 14 December 2015

ISSUES / POINTS MATERIAL IN DECIDING THIS W.P.

(wrt. to the decided Cases placed in the Paper Book whose pagination is shown in bracket in bold)

I (General)

	ISSUES/POINTS	COVERED BY
1	i. CGHS claim contrasted with the medicare claim to ex-servicemen; ii, The Doctrine of Legitimate Expectation, and the pre-conditions for its application	*Conf. of Ex-servicemen Asso. v. UoI* AIR 2006 SC 2945 Paras 13, 16, 31-32 & 39
2	Guidelines issued by the S.C. to the CGHS 15 years back still STAND ignored	*K.P.Singh v. UoI* (2001) 10 SCC 167
3.	I, Section 23-C of the Supreme Court Judges'(Salaries and Conditions of Service Rules, 1959; ii. The Petitioner's grievances were settled by the Govt. through an Affidavit filed before the S. C,	*Kuldip Singh v. UoI* JT 2002 (2) SC 506
4	Emergency treatment at a private, non-recognised hospital; Held entitled because of medical emergency,[32]	*Suman Rakheja v. State of Haryana* (2004) 13 SCC 563 (It was an Emergency of Class II or III gravity)
5	i. "It is settled legal position that the Government employees during his time or after his retirement is entitled to get the benefit of medical facilities and no fetters can be placed on his rights...." ii. "Under Article 21 of the Const. the State has a constitutional obligation to bear the medical expenses of Government employees while in service and also after they are retired."	*Kishan Chand v. Government of N.C.T.* 210 (169) DLT 32 Quoted with approval in *Union Of India Vs. Rameshwar Prasad* (2013) 3 AIR Jhar R. 483
6	Held, It is a settled legal position that the Government employee during his life time or after his retirement is entitled to get the benefit of the medical facilities and no fetters can be placed on his rights on the pretext that he has not opted to become a member of the scheme or had paid the requisite subscription after having undergone the operation or any others medical treatment-Under Article 21, the State has a constitutional obligation to bear the medical expenses of Government employees while in service and also after they are retired-Petition allowed.	*Suraj Bhan v. Govt. of NCT of Delhi* ILR(2010)IV DELHI 559
7	Reimbursement rejected on ground that petitioner not covered under CGHS Rules after retirement -- Retired Government officer entitled to benefit of the CGHS - A retired pensioner cannot be deprived of reimbursement of medical expenses on ground of not a member of CGHS -Writ of mandamus issued.	*S.K. SHARMA v. UoI* ILR(2002) I DELHI 709
8	STATUS "A writ of mandamus is thus issued directing respondents to examine the case of the petitioner for	*S.K. Sharma v. UoI* ILR(2002) I DELHI 709

[32] " Some of the serious illnesses do not knock to warn through bell giving them time . Emergency cases require immediate treatment and if with a view to comply with procedure one has to wait then it could be fatal." *State of Panjab v. Ram Lubhaya Bagga* AIR 1998 SC 1703 [para 17] . and also

	reimbursement of medical expenses and to reimburse the same to the petitioner on the basis that the petitioner is entitled to reimbursement of medical expenses as a retired Government servant." (para 16)	(PARA 16)
9	Status	*Suraj Bhan v. Government of NCT & Ors* [ILR (2010) IV DELHI 559 WP]

II (Emergency treatment: the Doctrine of Necessity)

10	. Emergency treatment - Neither any policy nor any circular was placed before the Court (para 5). Ii, whether in emergency prior permission is needed. Held no. (paras 13-14). ii whether it was wise to get a temporary pacing deferring the implant to later date after complying with formality. Held No. (paras 17-18)	*UoI v. J. P. Singh* 2010 LIC 3383
11	Emergency situation -- Treatment taken in a non C.G.H.S. covered area -- Sanction not taken -- Denial of medical reimbursement claim -- Whether proper? -- Held, No -- Govt. should not deny the claim on technical and flimsy ground..... "3. The petitioner has admittedly suffered the ailment and required urgent and immediate treatment in an emergency. The plea of the Government that he has not taken prior sanction for treatment in non-C.G.H.S. Hospital is clearly erroneous and cannot be entertained. Moreover, the law does not require that prior permission has to be taken in such situation where the survival of the person is the prime consideration. It is always open for the Government to grant *ex-post facto* sanction subject to verification of the claim which has not been denied in the present case. Reference may be made to the judgment of the Supreme Court reported as *Surjit Singh Vs. State of Punjab and others*....."- (para 3)	*Narendra pal Singh v. UoI* 1999(79) DLT 358:
12	These are no grounds which would disentitle the petitioner from receiving the health benefits which are integral to right to life. EHIRC happens to be an empanelled hospital presently.[33] Even if at the relevant time, it was not an empanelled hospital as urged by the respondent and treatment had been received there without reference by the Government official, the petitioner would be entitled to reimbursement of medical expenses, in any case, as per the CSMA Attendant Rules and rates. (Para - 14) Learned Counsel for the petitioner on instructions submits that rather that joining issue on this score and even though in a number of cases in emergency treatment, reimbursement has been given of the expenses incurred at EHIRC rates, petitioner confines the claim for reimbursement to the amount as processed by the respondents under the CSMA Rules which, from documents on record, was Rs. 1,13,950/-. (Para - 15)	*Mahendra Pal v. U*oI 117(2005) DELHI LAW TIME 204
13	Petitioner was government employee and holder of	*Jai Pal Aggarwal v. UoI*

[33] at the material time the "EHIRC was not an empanelled hospital." vide para 6 of *Mahendrapal* (read with para 14)

	CGHS card - Petitioner entitled for reimbursement in case of treatment taken under government empaneled hospital - Petitioner compelled to take treatment at non empaneled hospital due to emergency - Non empaneled hospital in which Petitioner took treatment was at par with empaneled hospitals -Denial of reimbursement not justified - Petitioner entitled for reimbursement - Petition allowed.	MANU/DE/2861/2013
14	As for as the present case is concerned, the Petitioner after the accident, on 02.03.2000 at night, on the advise of the Government Hospital, Arakonam, he was admitted in the General Hospital, Chennai, and treated for two days and later, because of the Doctors strike (also against the medical advise of the Government General Hospital, Chennai), he got himself admitted in a private Hospital viz., A.G. Hospital, Tambaram, Chennai, with the help of his relatives and later, got himself in Balaji Hospital on 04.03.2000 and finally, got discharged. Since he was in a very serious condition not to risk his life, he got discharged from the Government General Hospital, Chennai (against medical advise) and took treatment in the A.G. Hospital, Tambaram initially for some days and later, got treatment at Balaji Hospital. Subsequently, he submitted his claim. (Para -38) It is not in dispute that the Petitioner was reimbursed a sum of Rs. 80,840/- to which sum he was entitled to, according to the Respondents 2 to 5. For Doctors strike in the Government General Hospital certainly the Petitioner can not be found fault with. One should bear in mind that the reimbursement of medical expenses ought to be given to the Petitioner for the treatment received by him in regard to the injuries sustained in the accident as a monetary measure. The said reimbursement amount needs to be paid to the Petitioner on equitable consideration too. Although the Respondents harp on technicalities of rules while disallowing the portion of the claim made by the Petitioner, this Court comes to an inevitable conclusion that when substantial justice and technical consideration are pitted against each other, the cause of substantial justice deserves to be preferred for the Respondents 2 to 5 cannot claim to have vested right in injustice being done to the Petitioner. Further, it must be seen that the judiciary is respected not on account of its power to legalise injustice on technical grounds but, because it is capable of removing injustice and is expected to do so.	*C. Ganesh v. Central Administrative Tribunal* 9(2012)5 Mad LJ 257
15	"The Government was obliged to grant *ex post facto* sanction in case an employee requires a speciality treatment and there is a nature of emergency involved. In such a situation, treatment in a non-recognized hospital and non-observance of prescribed procedure and incurring expenditure in excess of	[*V. B. Jain's Case*[34]]

[34]*V.B. Jain v. Chief Executive Officer, Delhi Jal Board* O.A. No. 2954/2012, Reserved on : 22.05.2013 Pronounced on :25.07.2013 [Central Administrative Tribunal, Principal Bench, New Delhi]

	CGHS package/approved rates have to be condoned."	
16	"The petitioner in this case had to be operated in an emergency as he suffered a heart problem and in case he had waited for a prior sanction he might not have survived. Therefore, in this situation it is the duty of the Government to grant ex-post facto sanction and not deny the claim of the petitioner on technical and flimsy grounds."	*Narendra Pal Singh v. Union of India*[(1999) DLT 358, para5

III (Interpretation and Approach)

17	Statutory rules , held cannot be overridden by executive orders or executive practice; Rule 6 of the CS (MA) Rules examined and held a beneficial provision. The H. C. upheld the claim for the total reimbursement of the claim	*K. Kuppusamy & Anr. v. State of T.N.* (1998) 8 SCC 469 Also see *E.V. Kumar v. UoI* [2003 (4) CTC 29] that followed the observation of the SC in S, *Jagganath v. UoI* [1997 (2) SCC87]
18	1. No hyper-technical approach is justified in settling the claims; 2. Full claim was not allowed as the claim the memorandum dated 18. 9. 96 had not been impugned.	*B.R. Mehta v. UoI* 79 (1999) DLT 338
19	There is no ceiling limit on claims prescribed under the CS (MA) Rules1944	*K. K. Karbanda Vs. Union Of India* MANU/DE/0294/2009 at paras 12-13
20	Petitioner got reimbursed only Rs. 1,40,000/- from CGHS -- Rest of the bill was not reimbursed on the basis of office memorandum dated 11.6.1997 vide which only the extent of package deal can be reimbursed -- Held, petitioner was entitled for full reimbursement of medical expenses and not the rate specified in circular of 1996.	**Milap Singh v. U**oI 2004(113)DLT 91: Also see *Daljit Singh v. Govt. of N.C.T. Delhi* 2013(199)DLT 24
21	The benefit of giving medical aid of Rs. 100/- per month must be for routine medical treatment, however, in serious ailment, the technicalities should not and could not have been applied. The hyper - technical stand taken by the respondents is wholly unreasonable and unjustified. Even otherwise, under the scheme, the Board of Trustees had the discretion to allow reimbursement to the petitioner in the present case, but, as has been observed by this Court in number of cases, the Board of Trustees are deciding the matters without any norms in highly arbitrary manner. Since the surgery had been conducted at SMS Hospital, Jaipur, the genuineness of the bills also cannot be disputed.	*Bodu Ram Jat v. State of Rajasthan* (2006)5 SLR 705

IV

Relevant Norms consolidated in *Suraj Bhan's Case* [ILR (2010) IV DELHI 559 WP]
reiterated in *Kishan Chand v. Govt. of NCT* 210 (169) DLT 32

22	Even if employee contributes after availing medical facilities,and becoming member after treatment, there is entitlement to reimbursement.	*Govt. of NCT v. S.S. Sharma* :118(2005)DLT144
23	Even if membership under scheme not processed the retiree entitled to benefits of Scheme -.	*Mohinder Pal v. UOI* :117(2005)DLT204
24	**Full amounts incurred have to be paid by the employer; reimbursement of entire amount has to be made**. It is for the Government and the hospital concerned to settle what is correct amount. Milap Sigh v. UOI : 113(2004)DLT91 ;	*Ran deep Kumar Rana v. UOI* : 111(2004)DLT473 (emphasis supplied)
25	The pensioner is entitled to full reimbursement so long the hospital remains in approved list	*P.N. Chopra v. UOI*, (111) 2004 DLT 190
26	**Status of retired employee not as card holder**:	S.K. Sharma v.UOI 2002(64)DRJ620.
27	**If medical treatment is availed, whether the ployee is a cardholders or not is irrelevant and full mbursement to be given....**	*B.R. Mehta v. UOI* : (1999)DLT388 .'(emphasis pplied)
28	**The status of a retired Government Employee was held to be independent of the scheme and rules in so far as the entitlement to medical treatment and/or CGHS benefits were concerned** (ref. *V.K.Gupta v. Union of India*, : 97(2002)DLT337). Similarly in *Narender Pal Sigh v. Union of India*, : 79(1999)DLT358 , this Court had held that a Government was obliged to grant ex-post facto sanction in case an employee requires a specialty treatment and there is a nature of emergency involved." [emphasis supplied]	V.K.Gupta v. Union of India, : 97(2002)DLT337); *Narender Pal Sigh v. Union of India*, : 79(1999)DLT358
29	" It is also submitted that there is scheme know as CGHS Scheme. The respondent was entitled to Rs. 100/- per month for the purpose of medical facilities. The respondent was resident of the area covered by the CGHS Scheme. It is also submitted that the respondent when was taking benefit of Rs. 100/- per month, then he was not entitled to any other medical reimbursement. Learned counsel for the respondent/applicant submitted that various High Courts have already decided the issue which includes the issue involving the claim of employee who was getting benefit of Rs. 100/- per month and in that case the Division Bench of the Rajasthan High Court in the case of *Bodu Ram Jat Vs State of Rajasthan and Ors*.	*Rameshwar Prasad* [(2013) 3 AIR Jhar R. 483]:

	reported in *2006 (5) SLR 705* held that such benefit is given for routine medical treatment and it has nothing to do with serious aliment and technicalities should not have been applied by the respondents. "	

V

Functional and equitable approach, not hyper-technical approach

30	"In matters like this, the Government Orders should not be strictly construed as on the date when the Government Order was issued, the treatment viz., PTCA Stent could not have been invented or introduced. In recent days, the concept of treating ailments, has advanced so much, thanks not only to the Speciality Hospitals, Doctors specialized in the modern/advance treatments, but also the advanced techniques in method of treatment with use of sophisticated equipments. It is acceptable to common sense, that ultimate decision as to how a patient should be treated vests only with the Doctor, who is well versed and expertised both on academic qualifications and experience gained. Very little scope is left to the patient or his relative to decide as to manner in which the ailment should be treated." "Court cannot brush aside the advancement in modern medical treatment. Speciality Hospitals are established for treatment for specified ailments and services of Doctors specialized in a discipline are availed by patients only to ensure proper, required and safe treatment....." "**The right to medical claim cannot be denied merely because the name of the hospital is not included in the Government Order. The real test must be the factum of treatment. Before any medical claim is honoured, the authorities are bound to ensure as to whether the claimant had actually taken treatment and the factum of treatment is supported by records duly certified by Doctors/Hospitals concerned. Once, it is established, the claim cannot be denied on technical grounds as found in the impugned order. Writ Petition allowed." (***emphasis supplied)*	*E. Ramalingam v. Director of Collegiate Education* (2007 Writ L.R. 1073 at page 1074 (quoted in para 10 of *C. Ganesh's Case* (2012) 5 Mad LJ 257**)**
31	"Whenever law is confronted with facts of nature or technology, its solution must rely on criteria derived from them. For law is intended to resolve problems posed by	Judge Manfred Lachs of the International Court of Justice in *the North Se Continental Shelf Case* ICJ 1969, 3 at 222.

	such facts and it is herein that the link between law and the realities of life is manifest. It is not legal theory which provides answers to such problems; all it does is to select and adapt the one which best serves its purposes, and integrate it within the framework of law[35].”	

This Chart of some illustrative Cases has been drawn up by the Petitioner to assist him in presenting his case to the Hon'ble Court.

[35] J.G Starke’s *Introduction to International Law*, 10th ed. P. 178

PART – 'C'

ISSUES ALREADY JUDICIALLY CONSIDERED IN FAVOUR OF THE PETITIONER

Issues	Court decision	Remarks /comments
1. Parameters of treatment under Medical Emergency	*Suman Rakheja v. State of Haryana* (2004) 13 SCC 563 *Kuldip Singh v. UoI* JT 2002 (2) SC 506 *UoI v. J. P. Singh* 2010 LIC 3383 *Narendra pal Singh v. UoI* 1999(79) DLT 358: *Mahendra Pal v. U*oI 117(2005) DELHI LAW TIME 204 *Jai Pal Aggarwal v. UoI* MANU/DE/2861/2013 *C. Ganesh v. Central Administrative Tribunal* 9(2012)5 Mad LJ 257 [*V. B. Jain's Case*[36]] *Suraj Bhan's Case* [ILR (2010) IV DELHI 559 WP] *Kishan Chand v. Govt. of **NCT*** 210 (169) DLT 32 *UoI v. Rameshwar Prasa*d (2013) 3 AIR Jhar R. 483 *Mahendra Pal v. UoI* 117 (2005) DLT 204 * *Surjit Singh v. State of Punjab* (1996) SCC 336 see paras 9 and 10[37] * *State of Punjab v. Ram Lubbaya Bagga* AIR 1998 SC 1703 PARA 17[38]	Medical history was considered and the certificate of the doctor was accepted (see para 14)

[36] *V.B. Jain v. Chief Executive Officer, Delhi Jal Board* O.A. No. 2954/2012, Reserved on : 22.05.2013 Pronounced on :25.07.2013 [Central Administrative Tribunal, Principal Bench, New Delhi]

[37] referrd only to highlight what one can do under Medical Emergency

[38] referrd only to highlight what one can do under Medical Emergency

2. Hospital where the Emergency Treatment can be availed of	*Suman Rakheja v. State of Haryana* (2004) 13 SCC 563 *Kishan Chand v. Government of N.C.T.* 210 (169) DLT 32 *Mahendra Pal v. UoI* 117 (2005) DLT 204	Emergency treatment at a private, non-recognised hospital; Held entitled because of medical emergency, It is settled legal position that the Government employees during his time or after his retirement is entitled to get the benefit of medical facilities and no fetters can be placed on his rights...." A case of retired officer-- Even if at the relevant time, it was not empanelled hospital, petitioner would be entitled to reimbursement of medical expenses, as per CSMA Attendant Rules and rates
3. The duties of the doctors, the patients, and the role left for the CGHS to play	See Grounds 17-28 of the W.P. *E. Ramalingam v. Director of Collegiate Education* (2007 Writ L.R. 1073 at page 1074 (quoted in para 10 of *C. Ganesh's Case* (2012) 5 Mad LJ 257**)** at the P.B. page 156	
4.Full reimbursement [39]	*Ran deep Kumar Rana v. UOI* : 111(2004)DLT473 (emphasis supplied *P.N. Chopra v. UOI*, (111) 2004 DLT 190 *Kishan Chand v. Govt of N.C.T.* 2010 (169) DLT 32 para 8	"Full amounts incurred have to be paid by the employer ; reimbursement of entire amount has to be made: *Milap Singh v. UoI* 113 (2004) DLT 91 Ref. in *Kishan Chand's Case* in para 7 The pensioner is entitled to full reimbursement..... see para 7. "8. It is quite shocking that despite various pronouncements of this Court and of the Apex Court the respondents in utter defiance of the law laid down have taken a position that the pensioner is not entitled to the

[39] Rate was not disputed in *UoI v. J.P. Singh* 2010nLIC 3383.
Similar was the position in *Mahendra Pal v. UoI* 117 (2005) DLT 204 see para 15

		grant of medical reimbursement since he did not opt to become a member of the said health scheme after his retirement or before the said surgery undergone by him. It is a settled legal position that the Government employee during his life time or after his retirement is entitled to get the benefit of the medical facilities and no fetters can be placed on his rights on the pretext that he has not opted to become a member of the scheme or had paid the requisite subscription after having undergone the operation or any other medical treatment. Under Article 21 of the Constitution of India, the State has a constitutional obligation to bear the medical expenses of Government employees while in service and also after they are retired. Clearly in the present case by taking a very inhuman approach, these officials have denied the grant of medical reimbursement to the petitioner forcing him to approach this Court. The respondents did not bother even after the judgment of this Court was brought to their notice and copy of the same was placed by the petitioner along with the present petition." para 8 [Quoted with approval in *Rameshwar Prasad* [(2013) 3 AIR Jhar R. 483]:
	Sqn. Commander Randeep Kumar Rana v. UoI 473 *The Regional P.F. Commr. v. C Nagendra Prasa*d (P.B. page 72 para 12	

	J.C.Sindhwani v. UoI 124 (2005) DLT 513 ESP. PARA 8[40]	
5. Relevance of th e administrative instructions and the treatment under medical emergency	*Suraj Bhan v. Govt. of NCT of Delhi* ILR(2010)IV DELHI 559 *S.K. SHARMA v. UoI* ILR(2002) I DELHI 709 *K.Kuppusamy v. State of T.N* (1998) 8 SCC 469	
7. The Right Perspective that the CGHS must adopt	*C. Ganesh v. Central Administrative Tribunal* 9(2012)5 Mad LJ 257 *Milap Singh v. UoI* 2004 (113) DLT 91 *K.K.Kharbanda v. UoI* MANU/DE/ 0294/2009 at para 22	

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[40] "The issue of whether the Government is bound by the " package rates" and cannot disbursement amounts in excess of such "approved" rates has arisen for considration; in ***V.K Gupta v. Union of India***, 97(2002)DLT 337, ***M.G. Mahindra v. Union of India***, 92(2001) DLT 59; and *P.N. Chopra's* case (supra) the Court expressly rejected similar defences and directed full reimbursement. In *P.N. Chopra's* case, the decision in *Ram Lubhaya Bagga's* case (supra) was considered; nevertheless a direction to make full payment was issued. I am in complete agreement with the reasoning in those cases. "