

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
CHANDIGARH BENCH, CHANDIGARH.
O.A.NO.1493-CH-2013
Railway Senior Citizens Welfare Society etc. Applicants
Versus**

Union of India etc..

Respondents

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Place: Chandigarh.

(V.K.SHARMA)

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LIST OF EVENTS

DATES	EVENTS
-	<p>That the applicant Associations has been formed to espouse the cause of the retired employees.</p> <p>The Government does not have full medical facilities all over the country.</p> <p>The pensioners retired from Government of India or Railway Employees have been divided in two categories.</p> <p>i) Those Central Government Employees and Pensioners who live in areas covered under CGHS (Central Government Health Scheme); and those Railway Pensioners who have opted for RELHS-97 (Retired Employees Liberalised Health Scheme) - who get full medical treatment under the said Schemes;</p> <p>ii) The other category of Central Government employees and Pensioners are those who have not opted for CGHS and reside in non-CGHS areas; and those Railway Pensioners who have not opted for RELHS-97 or opted out of OPD treatment while residing at more than 2.5 kilometers away from Railway Hospitals or Dispensaries etc.</p>
19.12.1997	<p>The Ministry of Personnel, Public Grievances & Pensions, DoP&PW, New Delhi issued letter dated</p>

	<p>19.12.1997 for implementation of Government's decision on recommendations of 5th Central Pay Commission for grant of fixed medical allowance @ Rs.100/- per month to Central Government Pensioners residing in area not covered under CGHS for meeting expenditure on day-to-day medical expenses that do not require hospitalization.</p>
21.04.1999	<p>The Ministry of Railways, Railway Board, New Delhi, vide Orders dated 21.4.1999, in pursuance of recommendations of the 5th Central Pay Commission, also granted fixed medical allowance @ Rs.100/- per month to Railway pensioners / family pensioners residing outside the city/town/municipality limits of places where a Railway Hospital/ Health Unit/ Lock Up Dispensary is situated.</p>
21.10.2008	<p>The Government of India, Ministry of Finance, Department of Expenditure, Implementation Cell, New Delhi, issued a letter / Office Memorandum dated 21.10.2008, advising Director (PW), D/o Pension & PW, Lok Nayak Bhawan, New Delhi, that proposal of the administrative ministry has been considered in the Department. However, it was observed that the 6th Central Pay Commission, vide para 4.11.3 of its report, has recommended introduction of a Health Insurance Scheme for Central Government employees and pensioners. However, the scheme of FMA may be continued till such time the Health insurance scheme is implemented and it may be paid at enhanced rate of Rs. 200 per month instead of Rs.100 till such time. The</p>

	enhanced rates to be effective from 1.9.2008.
01.12.2008 24.09.2009	<p>The Ministry of Health & Family Welfare was requested by the DOP(P&PW) vide Secretary (Pension)'s D.O. letter dated 1.12.2008 to provide current expenditure incurred per pensioner per month in CGHS areas so as to arrive at an appropriate amount of FMA.</p> <p>Instead, the Ministry of Health and Family Welfare advised vide Office Memorandum dated 24.9.2009 that "...the Ministry of Health and family welfare has no objection to the FMA to be paid to pensioners being increased to Rs.500/- per month, as has been done by the Government of Haryana vide its sanction, No. 2/363/98-1HB III dated the 27th January, 2009. The Ministry of Health and Family Welfare also has no objection if the FMA is linked to the inflation on the basis of the formula followed by the Ministry of Finance for announcing DA/RIP(DR) to serving employees and pensioners respectively every six months".</p>
11.01.2010	<p>The Employees Provident Fund Organization, which comes under Ministry of Labour and Employment, New Delhi, issued letter dated 11.1.2010 on enhancement of rate of Fixed Medical Allowance payable to serving as well as retired employees of EPFO for outdoor medical treatment. The orders for enhancement of the Fixed Medical Allowance (FMA) from Rs.600/- per month to Rs.1200/- per month was issued by EPFO after getting the requisite approval by the Government of India – including the Ministry of Finance and that of the CBTEPF on 4.12.2009. This enhancement was made</p>

	effective w.e.f. 1.1.2009.
15-4-2010	<p><i>Minutes of Meeting of Committee of Secretaries held on 15-4-2010 - Ministry of Health & Family Welfare (vide Para 5) had assessed the total cost per card p.a. in 2006-2007 at about Rs.13, 713 and Rs.16, 435 in 2007-08. The premium payable per annum may be in the range of Rs.10,000 crores under the proposed insurance scheme</i></p> <p><i>MOH&FW mentioned in Para 5 of the Minutes that “proposed (Health Insurance) Scheme will not bear the costs of OPD medical requirements since the bidders perceive that the premium would then be too high and there may be no takers for it.”</i></p> <p><i>Cabinet Secretary over ruled proposals of MOH&FW and DOP (P&PW) to increase FMA to Rs.500 & 800 p.m. and directs it to be Rs.300p.m.</i></p>
26.05.2010	The Government of India, Ministry of Personnel, Public Grievances & Pensions, DOP&PW, New Delhi, issued office memorandum dated 26.5.2010 on grant of Fixed Medical Allowance to the Central Pensioners for enhancement of the amount of FMA from Rs.100/- to Rs.300/- per month and the orders were to take effect from 1.9.2008.
03.06.2011	Agreeing with the demand of staff side (JCM) under agenda item No.9 (FMA of Rs. 1200 pm) of the meeting held on 18-5-2011, the Ministry of Personnel, Public Grievances & Pensions, DOP&PW requested MOH&FP vide office memorandum dated 3.6.2011 to give their comments on the demand for enhancement of FMA so that the matter could be taken up with MOF.
12.12.2011	The Minister of State, Parliamentary Affairs, Prime

	<p>Minister's Office, Personnel, Public Grievances & Pensions, Government of India, vide DO letter dated 12.12.2011 wrote to Minister of Finance, Govt. of India, on claim of pensioners for increase of FMA. It was clearly mentioned that FMA amount of Rs.300/- is grossly inadequate and as such demand has been made to raise it from Rs.500/- to Rs.1500/- which was commensurate with the prevailing medical costs and similar allowance sanctioned by Employees Provident Fund Organization (@ Rs.1200 p.m) and some of the State Governments. In view of the hardship faced by pensioners residing outside the jurisdiction of CGHS dispensaries and the increased cost of medicines and medical treatment, Finance Minister was requested for enhancement of amount from Rs.300 to Rs.500 per month.</p>
16.01.2012	<p>The Minister of State for Finance (Expenditure & Financial Services), Government of India, New Delhi-1, vide letter dated 16.1.2012 has informed the Minister of State, Parliamentary Affairs, Prime Minister's office, Personnel, Public Grievances and Pensions, Govt. of India, New Delhi, that "FMA was increased from Rs.100/- to Rs.300/- at substantial cost to the exchequer and any further upward increase in FMA may not be appropriate given the constraints on the fiscal side and the revision already effected. Government is, in the interim, also contemplating introduction of a Central Government Employees and Pensioners Health Scheme to meet the health care</p>

	requirement of Central Government employees and pensioners”.
11.02.2012	<p>The Railways Senior Citizens Welfare Society (Applicant) submitted a representation dated 11.2.2012 to the Prime Minister and Minister of Finance mentioning about extreme hardship being faced by the pensioners on account of extremely meager amount of Rs.300/- per month granted as fixed Medical Allowance (FMA).</p> <p>It was pointed out that the cost of OPD treatment per Card Holder under CGHS, had increased 5 to 6 times since 2003-04 (based on which MOH had initially recommended the amount of Rs.300 PM plus DA as FMA).</p> <p>As per position given by the MOH&FW in the meeting of Cabinet Secretaries held on 15.4.2010, the total per card holder expenditure on OPD treatment, had increased from Rs.3570 per annum (or say Rs.300/-PM) in 2003-04 to Rs.16,435/- per annum (i.e. Rs.1369 or say Rs.1400 PM) in 2007-08. Adding to it the proportionate inflation for the year up to May, 2010 (when the revised amount of FMA was sanctioned), the expenditure per card holder can be placed at over Rs.1650 PM in 2009-10 and Rs.2000 PM in the year 2010-11 as per detail given therein on proportionate basis.</p> <p>Full justification was given for increase of the FMA in the said Memorandum. But still the demand of the Applicant was out rightly rejected merely on the financial</p>

	grounds – ignoring the merits of the case and the the discrimination existing between the Central Government/Railway Pensioners and those of the EPFO – under the Ministry of Labour.
13-6-2013	The Fixed Medical Allowance of Pensioners & employees of EPFO has further been enhanced from Rs. 1200/- to Rs. 2000/- P.M. vide EPFO Orders No. HRM-8/V/12/1/2003/FMA/Vol-117/6160 Dated 13 JUN 2013.
23-6-2013	The Applicant submitted another representation dated 23-6-2013 to the Prime Minister and Minister of Finance, explain the further accentuation of the discrimination caused on account of the further increase in FMA of EPFO from Rs.1200 to Rs.2000 P.M., without any revision in the FMA of Central Government/Railway Pensioners from the existing Rs.300 P.M.
8.7.2013	The Government rejected the Representation of the applicants vide letter dated 8.7.2013 even though they had approved the further increase of the FMA paid to the pensioners of EPFO from Rs.1200/- to Rs,2000/- per month.
19.10.2013	The General Body Meeting of the Railways Senior Citizens Welfare Society, Chandigarh, Panchkula & Mohali held on 19-10-2013 resolved to the effect that the payment of Rs.300/- of Fixed Medical Allowance is extremely inadequate to meet with the requirement of day to day treatment of the Pensioners and their dependents and as such it was resolved to file a court case for issuance of direction to the respondents to

	grant the pensioners at least minimum of Rs.1200/- p.m. as Fixed Medical Allowance, as given to employees and pensioners of EPFO.
-	<p>That the impugned orders and action of respondents in rejecting the genuine claim of the applicants for increase of Fixed Medical Allowance shows non application of mind, violative of Article 21 of the Constitution of India, harsh, void ab initio, arbitrary, in violation of Articles 14 and 16 of the Constitution of India, discriminatory and the impugned action is not tenable in the eyes of law and as such a direction is required to be issued to the respondents to enhance the amount at least at par with pensioners of other Departments/State Governments from due date, with all the consequential benefits of arrears of pay and allowances.</p> <p>Hence this Original Application.</p>

Place: Chandigarh.
Dated: 4.11.2013

(V.K.SHARMA)
Advocate
Counsel for Applicants

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
CHANDIGARH BENCH, CHANDIGARH.

O.A.NO._____-CH-2013

1. RAILWAY SENIOR CITIZENS WELFARE SOCIETY
(REGD.), CHANDIGARH
Head Office: 32, Phase 6, Mohali-160055 (Punjab)
Through
Secretary General, RSCWS Harchandan Singh
2. Harchandan Singh, S/o Late Shri Balbir Singh
Aged 71 years approx. (D.O.B. 19-9-1941)
(Retd.) Senior Section Engineers, Northern Railway
R/o 32, Phase 6, Mohali-160055 (Punjab)
2. Bippin Bihari Lal, S/o Shri Hardwari Lal Sharma,
Aged 71 years approx. (D.O.B. 23-4-1941)
Retd.) Chief Reservation Supervisor, N. Railway
R/o 1043, Sector 42 B, Chandigarh-160036
4. Khem Singh, s/o Late Shri Wattan Singh, aged 64 years
(Retd.) Assistant Mechanical Engineer R/o 971, Phase 4,
Mohali.

APPLICANTS

VERSUS

1. UNION OF INDIA, Through Secretary, Ministry of Railways,
Railway Board, Rail Bhawan, Rafi Marg. New Delhi.
- 2 Secretary, Pension & Pensioners Welfare,
Government of India,
Ministry of Personnel PG & Pensions,
Lok Nayak Bhavan, Khan Market,
New Delhi.
- 3 Secretary, Ministry of Health & Family Welfare,
Government of India, Nirman Bhavan,
Maulana Azad Road, New Delhi – 110108
4. Secretary, Ministry of Finance Expenditure,
Government of India, North Block,
New Delhi, 110001.

Respondents.

APPLICATION UNDER SECTION 19 OF THE
ADMINISTRATIVE TRIBUNALS ACT, 1985.

Respectfully showeth:-

DETAIL OF APPLICATION

**1. PARTICULAR(S) OF ORDER(S) AGAINST / FOR WHICH
THE APPLICATION HAS BEEN MADE:**

- (i) Against the letter dated 8.7.2013 by which the demand of the applicants for increase in Fixed Medical Allowance at par with the employees and pensioners of Provident Fund Organization has been rejected without any cogent reasons. Copy of the letter dated 8.7.2013 is attached as **Annexure A-1**.

- (ii) Against the order dated 26.5.2010 (Annexure A-2) issued by the Government of India, DOPT (P&PW), New Delhi in respect of Central Government Pensioners & Family Pensioners who have not opted for CGHS and are residing in areas not covered under CGHS and Letter dated 29.6.2010 (Annexure A-3) issued by Ministry of Railways in respect of Railway Pensioners/Family Pensioners - who had not opted for RELHS-97 or opted out of OPD treatment and residing at a distance of more than 2.5 kilometers from Railway Hospital or Dispensary - vide which a decision has been taken to grant only a sum of Rs.300/- as Fixed medical Allowance which is too inadequate and is not commensurate with the exorbitant rise in the cost of medicines, consultations and diagnostics required for day to day treatment, especially in old age and claim of applicants (Association) for increase of amount commensurate with increase in prices, has been

rejected illegally and arbitrary – in spite of strong recommendations made by the Ministry of Health and Ministry of Pension & Pensioners' Welfare for much higher FMA – both through letters to MOF(E) and during discussion in the Meeting of Committee of Secretaries held on 15.04.2010 - - as per record of Minutes of Meeting (Annexure 11).

- (iii) For Issuance of direction to the respondents to revise the amount of Fixed Medical Allowance to eligible Pensioners applicants who are members of Association to at least Rs.1200/- per month w.e.f. 1,1,2009, the date it was given to the employees of Provident Fund Organization and thereafter Rs.2000/- w.e.f. 1.3.2013, the date it was given to the employees and pensioners of Employees Provident Fund Organization keeping in view the high rise in prices and similar revision already been carried out by EPFO (with the approval of MoF(E) and the in proportion to the average expenditure of approximately Rs.2000 per head per month on OPD Treatment under CGHS on such of the Pensioners who are covered under the CGHS Scheme under the Ministry of Health & Family Welfare Government of India and to grant the said revision with all the consequential benefits of arrears therein and revision of amount in consonance with Consumer Price Index, with interest @ 18% per annum from the date the amount became due to the actual date of payment.

2. **JURISDICTION:**

The applicants declare that the subject matter of the order(s) against / for which the application has been made is within the jurisdiction of this Hon'ble Tribunal.

3. **LIMITATION:**

The applicants further declare that the application is within the limitation period as prescribed in section 21 of the Administrative Tribunals Act, 1985.

4. **FACTS OF THE CASE :**

In brief, the facts of the case are as under:-

- 4.1 That the applicant No. 1 is Association of Retired Employees and is espousing their cause and applicant no. 2, 3 & 4 are members of the said Association - who have been impleaded as a party by name. The grievance of the members of Association and applicant no. 2,3 & 4 being common and identical, a joint Original Application is being filed which is maintainable under Rule 4 (5) of the Central Administrative Tribunal (Procedure) Rules, 1987. A copy of the Resolution of the Association authorizing Shri Harchandan Singh, applicant No.2, to file a case in the context on behalf of the Society, is enclosed as Annexure-20 to this Original Application.
- 4.2 That the applicant Associations has been formed to espouse the cause of the retired employees. The Government does not have full medical facilities all over the country. The pensioners retired from Government of India or Railways have been divided in two categories. Those who live in areas covered by CGHS (for Central Government Employees) and RELHS (For Railway Employees/Pensioners), they get full medical

treatment both for day-to-day OPD Medical Treatment as well as Indoor and Specialised Treatment in CGHS Welfare Center / Dispensaries and Railway Hospitals & Dispensaries respectively and other Government and Recognised Private Medical Hospitals. The other category of Pensioners are those who are deprived of these facilities – since these Central Government Pensioners residing in non-CGHS areas and Railway Pensioners residing in far flung areas away from Railway Hospitals and Dispensaries and those who had opted out of OPD facilities under RELHS-97 of the Railways. This second category of Pensioners gets fixed medical allowance – which was earlier Rs.100 and now Rs.300 P.m. as per impugned orders Copy of the order dated 26.05.2010 and 29.06.2010 are enclosed and marked as **Annexure A-2 and A-3** to this Original Application.

4.3 That the Ministry of Personnel, Public Grievances & Pensions, DOPT (P&PW), New Delhi issued letter dated 19.12.1997 in implementation of Government's decision on the recommendations of 5th Central Pay Commission for grant of fixed medical allowance @ Rs.100/- per month to Central Government Pensioners residing in area not covered under CGHS for meeting expenditure on day-to-day medical expenses that do not require hospitalization. Copy of the order dated 19.12.1997 is enclosed and marked as **Annexure A-4** to this Original Application.

4.4 That the above orders were also ipso-facto implemented in the Railways. The Ministry of Railways, Railway Board, New Delhi, vide letter dated 21.4.1999, in pursuance of recommendations of the 5th Central Pay Commission, also granted fixed medical allowances @ Rs.100/- per month to Railway pensioners / family pensioners residing outside the city/town/municipality limits of places where a Railway

Hospital/ Health Unit/ Lock Up Dispensary is situated. Copy of the order dated 21.04.1999 is enclosed and marked as **Annexure A-5** to this Original Application.

- 4.5. a) That the Sixth Central Pay Commission recommended (vide para 4.11.5) that Health Insurance Scheme should be devised for meeting the OPD needs of the pensioners. The Commission recommended (vide Para 4.11.3) that in the interregnum, the Government should consider enhancing the amount of medical allowance for Pensioners living in non-CGHS areas appropriately.
- b) The Commission did not recommend any specific amount and left the same to the Government to determine the same. However, no action was taken on the issue for quite some time.
- 4.6. That the Government of India, Ministry of Finance, Department of Expenditure, Implementation Cell, New Delhi, issued a letter / Memorandum dated 21.10.2008, advising Director (PW), D/o Pension & PW, Lok Nayak Bhawan, New Delhi, that proposal of the administrative ministry has been considered in the Department. However, it was observed that the 6th Central Pay Commission, vide para 4.11.3 of its report, has recommended introduction of a Health Insurance Scheme for Central Government employees and pensioners. However, the scheme of FMA may be continued till such time the Health insurance scheme is implemented and it may be paid at enhanced rate of Rs. 200 per month instead of Rs.100 till such time. The enhanced rates will be effective from 1.9.2008. Copy of the letter dated 21.10.2008 is enclosed and marked as **Annexure A-6** to this Original Application.

- 4.7. That the Secretary (Pension) vide D.O. letter dated 1.12.2008 requested Ministry of Health & Family Welfare to provide current expenditure incurred per pensioner per month in CGHS areas so as to arrive at an appropriate amount of FMA. Instead, the Ministry of Health and Family Welfare vide order/OM dated 24.9.2009 inter-alia advised that "...the Ministry of Health and family welfare has no objection to the FMA to be paid to pensioners being increased to Rs.500/- per month, as has been done by the Government of Haryana vide its sanction, No. 2/363/98-1HB III dated the 27th January, 2009. The Ministry of Health and Family Welfare also has no objection if the FMA is linked to the inflation on the basis of the formula followed by the Ministry of Finance for announcing DA/RIP(DR) to serving employees and pensioners respectively every six months". Copy of the letter dated 24.9.2009 is enclosed and marked as **Annexure A-7** to this Original Application.
- 4.8. That the Employees Provident Fund Organization (EPFO), which comes under Ministry of Labour and Employment, New Delhi, issued letter dated 11.1.2010 on enhancement of rate of Fixed Medical Allowance payable to serving as well as retired employees of EPFO for outdoor medical treatment. The 67th Executive Committee, held on 4.12.2009, CBTEPF approved - with the concurrence of the Government / Ministry of Finance Expenditure - for enhancement of the Fixed Medical Allowance (FMA) from Rs.600/- per month (Rupees Six Hundred only) to Rs.1200/- per month (Rupees One Thousand & Two Hundred only). This enhancement was made effective w.e.f. 1.1.2009. Copy of the letter dated 11.1.2010 is enclosed and marked as **Annexure A-8** to this Original Application.
- 4.9. The Government of India, Ministry of Personnel, Public Grievances & Pensions, DOP&PW, New Delhi, issued office memorandum dated

26.5.2010 on grant of Fixed Medical Allowance to the Central Pensioners residing in areas not covered under CGHS. It was mentioned that demand of enhancement of FMA has been under consideration of the Government and sanction of the President was conveyed for enhancement of the amount of FMA from Rs.100/- to Rs.300/- per month and the orders were to take effect w.e.f. 1.9.2008. Copy of the order dated 26.5.2010 is already enclosed and marked as Annexure A-2 to this Original Application.

4.10. That the Ministry of Personnel, Public Grievances & Pensions, DOP&PW, New Delhi sent office memorandum dated 3.6.2011 to Ministry of Health, on the proposal for enhancement of Fixed Medical Allowance to pensioners. It was mentioned that in the meeting with the representatives of staff side (JCM) on pensionary matters, which was held on 18.5.2011 under the Chairmanship of Secretary, Pension, AR&PG, wherein - vide Agenda Item No. 9 - the demand for – Fixed Medical Allowance of Rs.1200/- p.m. to Central Government Pensioners was made (at par with EPF Organization under Ministry of Labour) and in view of high cost of medicines. It was agreed that the demand of the staff side would again be taken up with Ministry of Health & Family Welfare. The Ministry of Health & Family Welfare was required to consider the demand of staff side and convey their decision to Staff Side. Copy of the order dated 3.6.2011 is enclosed and marked as Annexure A-9 to this Original Application.

4.11. DOP (P&PW) records in Para 9 of its “*NOTE FOR THE COMMITTEE OF SECRETARIES*” (COS) DATED 11-3-2010 recommended as under:

“ As the matter was getting delayed and number of Representations from pensioners had been continually on the

rise, it was felt that the approval of the Deptt. of Expenditure may be sought to the proposal to increase FMA from the existing amount of Rs.100 p.m. to Rs.500 p.m. and the same being linked to inflation as suggested by the Ministry of Health & Family Welfare instead of insisting on the enhancement of FMA to Rs.800 p.m. as earlier recommended by this Department (DOP P&PW) and accordingly, the Ministry of Finance, Department of Expenditure was requested to concur the same.”

(Note dated 11-03-2010 of DP&PW for COS is enclosed and marked as **Annexure A -10** of this OA)

Department of Pension & Pensioners Welfare recorded in Para 10 of its “NOTE FOR THE COMMITTEE OF SECRETARIES” DATED 11-3-2010 (Annexure 10) further mentioned as under:

“10. This Department strongly feels that ----- the cost of medicines and consultation charges have increased manifold since 1997, the year in which the FMA was fixed at Rs.100/- per month. The cost of medicines, particularly for older people (pensioners) has increased significantly since 1997. The consultation fee of a Doctor which used to be generally between Rs.20 and 50 per visit in the year 1996 has increased to between Rs.100/- to Rs.500/- per visit in the year 2010. The cost of diagnostic tests has increased considerably during the same period.”

- 4.12. That ignoring the recommendations of Ministry of Personnel (P&PW) for the FMA to be raised to Rs.800/- p.m. and to be linked to inflation and ignoring the recommendations of the Ministry of Health & FW for grant of FMA of Rs.500 p.m. linked to inflation, as well as ignoring all the arguments the MOP&PW and MOH&FW had given in their Notes for

COS as well as during the said meeting OF COS, the “Cabinet Secretary arbitrarily directed that D/o Expenditure may consider enhancing fixed medical allowance to Rs.300 p.m. for pensioners living in non-CGHS areas to meet their day-to-day OPD medical requirements”

Minutes of the Meeting of COS (Committee of Secretaries) are enclosed and marked as **Annexure A-11** of this Original Application.

- 4.13. That based on the above decision of the Cabinet Secretary Ministry of Finance Expenditure had approved an amount of Rs.300 p.m. as the revised FMA w.e.f. 1-9-2008 vide O.M. dated 26.5.2016 (Annexure A-2) and that too without being linked to inflation. DOP P&PW issued the impugned orders accordingly.
- 4.14. That the above said directives of the Cabinet Secretary and subsequent impugned orders were non-speaking, arbitrary and passed without any reason or justification thereof – over ruling the detailed justifications given by the DOP (P&PW) and MOHF&W as cited in the foregoing Paras besides creating a discrimination vis-a-vis employees and Pensioners of EPFO for whom the Government and the Ministry of Finance had already approved Rs.1200 p. m. as FMA.
- 4.15. That numerous representations made by various Associations of the Pensioners – including those by the Applicant as well as in the SCOVA and National Council (JCM) have all been turned down by the Ministry of Finance Expenditure. Copies of Representations to Government and Appeal by Applicant to PM & MOP&P are enclosed and marked as **Annexure A-12 & A-13** of this OA.

4.16. That in the representation dated 28-10-2010 to the Minister of State for Personnel, Pension and Pensioner Welfare followed by an Appeal Dated 11.2.2012 to the Prime Minister and Minister of Finance GOI, the applicants, inter-alia mentioned as under:

- i) That the amount of Fixed Medical Allowance (FMA) of Rs.300 per month was extremely meager and much hardship was being faced by the pensioners on this account.
- ii) It was further mentioned that the amount of FMA is so negligible that it does not meet with even a "fraction" of day-to-day medical expenses for treatment of old-age problems. It defeats the very purpose for which it is purported to be paid.
- iii) It was a cruel joke with the senior citizens who had given valuable years of their lives to the service of the nation.
- iv) The cost of OPD treatment per Card Holder under CGHS, had increased 5 to 6 times since 2003-04 (based on which MoH had initially recommended the amount of Rs.300 PM plus DA as FMA).
- (v) As per position given by the MoH in the meeting of Cabinet Secretaries held on 15.4.2010, the total per card holder expenditure on OPD treatment, had increased from Rs.3570 per annum (or say Rs.300/-PM) in 2003-04 to Rs.16,435/- per annum (i.e. Rs.1369 or say Rs.1400 PM) in 2007-08. Adding to it the proportionate inflation for year upto May, 2010 (when the revised amount of FMA was sanctioned), the expenditure per card holder can be placed at over Rs.1650 PM in 2009-10 and Rs.2000 PM in

the year 2010-11 as per details given therein, by the MOH&FW.

4.17. That the Minister of State, Parliamentary Affairs, Prime Minister's Office, Personnel, Public Grievances & Pensions, Government of India, vide letter dated 12.12.2011 wrote letter to Ministry of Finance, Govt. of India, New Delhi, on claim of pensioners for increase of FMA. It was clearly mentioned that FMA amount of Rs.300/- is grossly inadequate and as such demand has been made to raise it from Rs.500/- to Rs.1500/- which is commensurate with the prevailing medical costs and similar allowance sanctioned by Employees Provident Fund Organization (Rs.1200) and some of the State Governments. In view of the hardship faced by the pensioners residing outside the jurisdiction of CGHS dispensaries and the increased cost of medicines and medical treatment, Finance Minister was requested for enhancement of amount from Rs.300 to Rs.500 per month. Copy of the letter dated 12.12.2011 is enclosed and marked as **Annexure A-14** to this Original Application.

4.18. That the Minister of State for Finance (Expenditure & Financial Services), Government of India, New Delhi-1, vide letter dated 16.1.2012 informed the Minister of State, Parliamentary Affairs, Prime Minister's office, Personnel, Public Grievances and Pensions, Govt. of India, New Delhi, that FMA was increased from Rs.100/- to Rs.300/- at substantial cost to the exchequer and any further upward increase in FMA may not be appropriate given the constraints on the fiscal side and the revision already effected. Government is, in the interim, also contemplating introduction of a Central Government Employees and Pensioners Health Scheme to meet the health care requirement of Central Government employees and pensioners. Copy of the order

dated 16.01.2012 is enclosed and marked as **Annexure A-15** to this Original Application.

- 4.19. Fixed Medical Allowance of Pensioners & employees of EPFO has further been enhanced from Rs. 1200/- to Rs. 2000/- P.M. vide EPFO Orders No. HRM-8/V/12/1/2003/FMA/Vol-117/6160 Dated 13 JUN 2013. Copy of the order is enclosed as **Annexure A-16**.
- 4.20. The Applicant submitted another representation dated 23-6-2013 to the Prime Minister and Minister of Finance, explain the further accentuation of the discrimination caused on account of the increase in FMA of EPFO from Rs.1200 to Rs.2000 P.M., without any revision in the FMA of Central Government/Railway Pensioners from the existing Rs.300 P.M. This representation has also since been rejected by the Government vide letter dated 8.7.2013. Copy of the Representation dated 23-6-2013 is placed at **Annexure A-17** and copy of the Reply of the Government is placed at Annexure A-1.
- 4.21. That the General Body Meeting of the Railways Senior Citizens Welfare Society, Chandigarh, Panchkula & Mohali was held on 27.10.2012 to the effect that the payment of Rs.300/- of Fixed Medical Allowance is extremely inadequate to meet with the requirement of day to day treatment of the old Pensioners who had faithfully served the Nation for long years but are now being badly ignored by the Government in getting proper treatment for themselves and their dependents and as such it was resolved to file a court case for issuance of direction to the respondents to grant the pensioners at least minimum of Rs.1200/- w.e.f 1,1,2009 i.e. the date it was given to employees and pensioners of Employees Provident Fund Organisation and thereafter Rs.2000/- w.e.f.

1.3.2013 i.e. the date it was given to the employees and pensioners of Employees Provident Fund Organization.. Copy of the Resolution is enclosed and marked as **Annexure A-20** to this Original Application.

4.22. That the impugned orders and action of respondents in rejecting the genuine claim of the applicants for increase of Fixed Medical Allowance shows non application of mind, violative of Article 21 of the Constitution of India, harsh, void ab-initio, arbitrary, in violation of Articles 14 and 16 of the Constitution of India, discriminatory and the impugned action is not tenable in the eyes of law and as such a direction is required to be issued to the respondents to enhance the amount at least at par with pensioners of EPFO other Departments/State Governments from due date, with all the consequential benefits of arrears of pay and allowances. Hence, this Original Application.

5. GROUND FOR RELIEF WITH LEGAL PROVISIONS:

That the impugned orders and action of respondents in rejecting the genuine claim of the applicant are illegal, arbitrary, discriminatory, unreasonable, harsh, violative of articles 14 and 16 of the Constitution of India and as such are liable to be quashed and set aside, with all the consequential benefits, inter-alia, on the following grounds:-

5.1 That admittedly, the Sixth Central Pay Commission has recommended that a Health Insurance Scheme should be devised for meeting the OPD needs of the pensioners, which has not been done till date and recommendation for enhancing the amount of FMA was also made but on that account also there is very insignificant increase in FMA from Rs.100/- to Rs.300/- per month. It is common knowledge that post-retirement life becomes difficult as in old age one is prone to various

kind of diseases and if he is paid a paltry sum of Rs.300/- only as medical expenses, how can he look after himself medically with these high-rising prices.

- 5.2 That the claim of the applicants is genuine as is apparent from the action taken by State of Haryana by increasing the FMA to Rs.500 p.m. as well as Government's own limb i.e. EPFO, which has increased the amount of Fixed Medical Allowance for its employees / pensioners to Rs.1200 per month and further increased to Rs.2000/- per month. The applicants are similarly situated and the respondents cannot be allowed to adopt pick and choose policy. The ground taken by respondents that it may cause a burden on ex-chequer is not sustainable as such ground has not been taken in those cases where increase has been ordered. Thus, the impugned orders being discriminatory are liable to be quashed and set aside.
- 5.3 That despite the fact that figures of actual expenditure per CGHS card holder to the tune of Rs.16435 incurred in the year 2007-08 (Rs. 1369 pm) were furnished by MOH & FP in the meeting of Secretaries, no cognizance of this fact was taken and an amount of Rs.300 p.m. was fixed arbitrarily and without any reasoning.
- 5.4 That undisputedly as per the information submitted by respondents, as per the report of Cost Accounts Branch of the Department of Expenditure on "Cost of CGHS Facilities for employees of autonomous bodies and semi Government Organizations 2001-2005, the average cost per card per pensioner for outdoor treatment was Rs.3,570 per annum in the year 2003-04 and as such amount of Rs.300/- per month as FMA in 2003-04 could be considered as reasonable at that point of time or in 2004-05. But due to exorbitant increase in price index –

especially of Medicines, & diagnostics etc. in subsequent years, recommendation was made by competent ministry to increase it to Rs.500/- which too had not been accepted by the respondents till date. All this has been considered by the respondents in various meetings and notes put up before the COS (Committee of Secretaries) for enhancement of Fixed Medical Allowance which are enclosed as **Annexure A-18**. These notes have been received by the applicant under Right to Information Act 2005.

- 5.5 That there is violation of Article 21 of the Constitution also as it provides citizen of this Country fundamental right to protection of their life and personal liberty and hence the applicant or his family members had every right to save the life of applicant. It is a settled law by various courts that 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.
- 5.6 That by paying a lower amount of FMA to the eligible Pensioners, the respondents are enjoying the amount that belongs to the applicants and has caused wrongful loss to them; they are liable to pay applicant interest on such payment @18% per annum from the date the amount became due to the actual date of payment i.e. w.e.f. 1-9-2008 from which the other Allowances were revised after the Sixth Pay Commission.
- 5.7 That it has also come on record in Minutes of the Meeting of Committee of Secretaries under the chairmanship of Cabinet Secretary held on 15.4.2010, that the proposed Health Insurance Scheme will not bear the costs of OPD Medical requirements since the bidders perceive that the premium would then be too high and there may be no takers for it. In

other words, the FMA Scheme is likely to continue in any case even if Health Insurance Scheme is implemented.

5.8 That the FMA for employees and pensioners of EPFO has been revised every third year as many as 5 times between 1997 to 2010 – by as much as 33% in 1997, 25% in 2000, 66.67% in 2003, 140% in 2006 and by 100% in 2010 (thus granting Rs.120 from 1.1.1997, Rs.150 from 14.3.2000, Rs.250 from 1.1.2003, Rs.600 from 1.1.2006 and Rs.1200 as FMA from 1.1.2009, based on rise in the cost of medicines and consultation for day to day treatment. All these revisions of FMA by EPFO were apparently done with the approval of the Ministry of Finance / government. Section 5 D(7) (a) of (EPF Act) provides that rules and orders applicable to officers & Employees of the Central Government shall be applicable to the officers & Employees of the Central Board of EPF. However, it has been provided that where the Central Board (of EPF) is of the view that it is necessary to make a departure from the said rules or orders, in respect of any of the matters aforesaid, it shall obtain the prior approval of the Central Government. For the facility of reference of the Court the relevant provision of the Employees Provident Fund Act is reproduced as under:-

“5D : Appointment of Officers:-

(i) To (6) : xxxx xxxx xxx xxx

(7)(a) The method of recruitment, salary and allowances, discipline and other conditions of service of the Additional Central Provident Fund Commissioner, Deputy Provident Fund Commissioner and Regional Provident Fund Commissioner, Assistant Provident Fund Commissioner and other officers and employees of the Central Board shall be such as may be specified by the Central Board in accordance with the rules and orders applicable to the officers and employees of the Central Government drawing corresponding scales of pay:

Provided that where the Central Board is of the opinion that it is necessary to make a departure from the said rules or orders in respect of any of the matters aforesaid, it shall obtain the prior approval of the Central Government.”

5.9. That once the Department of Expenditure, Ministry of Finance has accorded approval for increase in the Fixed Medical Allowance for employees and Pensioners of Provident Fund Organization, there is no reason as to why the same should be denied to the Central Government Pensioners and Railway Pensioners. Thus the action of the respondents in denying the increase in medical allowance to the applicants is discriminatory and unreasonable and is in violation of Article 14 of the Constitution of India.

5.10 That the Department of P&PW proposed on 6.10.2008 for enhancement of FMA amount from Rs.100 to Rs.800 per month to Central Government Pensioners linked to inflation which was not accepted by the Ministry of Finance Expenditure.

5.11 That the respondents Ministry of Health & Family Welfare and DoP P&PW had themselves recommended for approval of the Department of Expenditure to the proposal to increase FMA to Rs.500/- and Rs. 800 per month respectively and that the same being linked to inflation. The Ministry of Finance, Department of Expenditure was requested to concur in the same. It was also recorded in Note for the Committee of Secretaries dated 11.3.2010, that cost of medicine and consultation charges have increased manifold since 1997, the year in which the FMA was fixed at Rs.100/- per month. The cost of medicines, particularly for older people (Pensioners) had increased significantly since 1997. The Consultation fee of a Doctor which used to be generally between Rs.20 and 50 per visit in the year 1996 has been increased to between Rs.100/- to Rs.500/- per visit in the year 2010 and cost of diagnostic tests has increased considerably during the same period.

- 5.12 That ignoring the recommendations of Ministry of Personnel (P&PW) for the FMA to be raised to Rs.800/- per month and to be linked to inflation, ignoring the recommendations of the Ministry of Health & FW for grant of FMA of Rs.500 per month linked to inflation, as well as ignoring all the arguments the MOP&PW and MOH&FW had given in their notes for Committee of Secretaries as well as during the said meeting of COS, the "Cabinet Secretary directed that D/o Expenditure may consider enhancing fixed medical allowance to Rs.300 p.m. for pensioners living in non-CGHS areas to meet their day-to-day OPD medical requirements. Based on this direction of the Cabinet Secretary, the amount of FMA was raised to Rs.300 per month.
- 5.13 The said decision was totally unjust, arbitrary, non-speaking and not based on any material facts whatsoever. In any case such decision cannot be made stagnant and has to under go revision from time to time as increase in prices continues.
- 5.14 That the said amount of Rs.300/- p.m. as FMA arbitrarily decided in the said meeting is too inadequate to meet the cost of medicines and expenses for day-to-day treatment and is not in commensurate with the rise in cost of medicine since 1.1.1997 when FMA of Rs.100 was initially granted.
- 5.15 That the action of the respondents in rejecting the claim of the applicants for grant of Fixed Medical Allowance of at least Rs.1200/- per month w.e.f. 1.1.2009 i.e. the date it was given to employees and pensioners of Provident Fund Organization and thereafter Rs.2000/- w.e.f. 1.3.2013 i.e the date from which it was given to the employees and pensioners of Provident Fund Organization is wholly discriminatory and unconstitutional and thus liable to be set aside as for the same period the Ministry of Finance had approved the revision of FMA of

EPFO pensioners from Rs.1200 per month to Rs.2000 per month w.e.f. 1.3.2013.

5.16 That action of respondents in fixing the FMA at a lowly amount of Rs.300 per month and thereafter rejecting the claim of the respondents for higher FMA for day to day treatment to those not residing in CGHS areas and not getting OPD treatment from CGHS/Railway Hospitals shows non application of mind as the respondents have not considered the inflation in cost of (OPD) treatment. Cost of OPD treatment per Card Holder under CGHS had increased 5 to 6 times since 2003-04 (based on which MOH had initially recommended the amount of Rs.300 p.m. plus DA as FMA). As per position given by MOH in the meeting of Cabinet Secretaries held on 15.4.2010, the total per card holder expenditure on OPD treatment, had increased from Rs.3570/- p.a. (or say Rs.300 pm) in 2003-04 to Rs. 16,435 pa (i.e. Rs.1369 or say Rs.1400 pm) in 2007-08 (as per information received under RTI Act). Adding to it the proportionate inflation for year upto May 2010 (when the revised amount of FMA was sanctioned, the expenditure per card holder can be placed at over Rs. 1650 pm in 2009-10 and Rs. 2000 pm in the year 2010-11, Rs.2346 in the year 2011-12 and Rs, 2807 for the year 2012-13 as per details given below:-

S.No.	Year	Average Annual Cost per CGHS Card Holder (For treatment under CGHS)			Remarks/Source.
		Rs.PA	Rs.PM	%rise of cost over previous year	
1.	2006-07	13713	1142.75		As advised by MOH in the
2.	2007-08	16435	1369.58	19.65%	Meeting of Secretaries on 15.4.2010 (as per RTI.
3.	2009-10	29664	1638.70	19.65%	Estimated on proportionate % of rise in the previous
4.	2010-11	23528	1960.66	19.65%	year 2006-07 to 2007-08
5.	2011-12	28151	2346	19.65%	Estimated on proportionate
6.	2012-13	33682	2807	19.65	% of rise in the previous year 2006-07 to 2007-08

The cost of OPD treatment per card holder (as mentioned above) considered by MOH for basing the proposal for FMA was based on cost of Medicine purchased under CGHS – with discounts between 12% to 30% (for bulk supply) – as is clear in the Note of MOH on item ii) of the Agenda for meeting of Secretaries held on 15.4.2010. Actual MRP or cost of Medicines payable in the open market for day to day treatment (by pensioners not getting OPD treatment under CGHS/RELHS) is much higher than the expenditure considered by MOH – per card holder on OPD treatment under CGHS. Even the recommendations of the Ministry of Health as well as DOP (P&W) for linking the FMA with inflation and adding DA to off set the impact of continuous rise in the cost of Medicines and Consultations etc. for Day to Day outdoor treatment had not been agreed to by the Ministry of Finance. Letter of Ministry of Health dated 16.9.2008 to this effect is enclosed as **Annexure A-19**.

5.17 That action of the respondents is in violation of Articles 14 and 16 of the Constitution of India, is against the law laid down by various courts including this Hon'ble Tribunal and the impugned action is not tenable in the eyes of law which has caused manifest injustice to the applicants which is writ large on the face of record.

6 DETAILS OF REMEDIES EXHAUSTED:

The applicants declare that they are left with no alternative except to approach this Hon'ble Tribunal for speedy and efficacious justice inasmuch.

7. MATTER NOT PREVIOUSLY FILED OR PENDING WITH ANY OTHER COURT.

The applicants further declare that they have not previously filed any application, writ petition or suit regarding the matter, in respect of which this application has been made, before any court or any other authority or any other Bench of the Tribunal nor any such application, writ petition or suit is pending before any of them.

8. RELIEF(S) SOUGHT FOR:

In view of the facts and grounds mentioned above, the applicant prays for the following reliefs:-

- (i) Quash the letter dated 8.7.2013 by which the demand of the applicants for increase in Fixed Medical Allowance at par with the employees and pensioners of Provident Fund Organization has been rejected without any cogent reasons. Copy of the letter dated 8.7.2013 is attached as **Annexure A-1**.
- (ii) Quash the orders dated 26.5.2010 (Annexure A-2) issued by the Government of India, DoP (P&PW), New Delhi in respect of Central Government Pensioners & Family Pensioners residing in areas not covered under CGHS and orders dated 29.6.2010 (Annexure A-3) issued by Ministry of Railways in respect of Railway Pensioners/Family Pensioners residing non-RELHS areas or those who had opted out of RELHS (and residing more than 2.5 Km from Railway Hospitals or Dispensaries) vide which a decision has been taken to grant only a sum of Rs.300 per month as Fixed medical Allowance which is too inadequate and is not commensurate with the exorbitant rise in the

cost of medicines, consultations and diagnostics required for day to day treatment, especially in Post-Retirement old age and claim of applicants for increase of amount commensurate with increase in prices, has been rejected illegally and arbitrary and fixing of only Rs.300/- p.m. as FMA may kindly be declared as illegal and arbitrary and relevant documentation in that regard may also kindly be quashed and set aside.

- (iii) Issue direction to the respondents to revise the amount of Fixed Medical Allowance to eligible Pensioners applicants who are members of Association to at least Rs.1200/- per month w.e.f. 1.1.2009, the date it was given to the employees of Provident Fund Organization and thereafter Rs.2000/- w.e.f. 1.3.2013, the date it was given to the employees and pensioners of Employees Provident Fund Organization keeping in view the high rise in prices and similar revision already been carried out by EPFO (with the approval of MoF(E) and the in proportion to the average expenditure of approximately Rs.2000 per head per month on OPD Treatment under CGHS on such of the Pensioners who are covered under the CGHS Scheme under the Ministry of Health & Family Welfare Government of India and to grant the said revision with all the consequential benefits of arrears therein and revision of amount in consonance with Consumer Price Index, with

interest @ 18% per annum from the date the amount became due to the actual date of payment.

- (iv) Any other order or direction deemed fit and proper in the facts and circumstances of the case may also kindly be issued in favour of the applicants.
- (v) Costs of the Original Application may please be allowed in favour of the applicants.

9. **INTERIM RELIEF:**

Nil.

10. The application is being filed personally at the Registry of the Tribunal through Shri V.K. Sharma, Advocate.

11. **PARTICULARS OF IPO/POSTAL ORDER FILED IN RESPECT OF APPLICATION FEE :**

IPO No. 77G 727187 Dated 6-11-2013 for Rs.50/-

Drawn at Chandigarh.

12. **LIST OF ENCLOSURES:**

As per index attached to the Original Application.

PLACE: CHANDIGARH.

Sd/- H. Singh

APPLICANT(S)

DATED: 4-11-2013

THROUGH :-

(V.K.SHARMA)

ADVOCATE

VERIFICATION:

I, Harchandan Singh S/o Shri Balbir Singh, aged 71 years, Secretary General, Railway Senior Citizens Welfare Society, Chandigarh, Panchkula & Mohali, 32, Phase-6, Mohali-160055, do hereby verify that the contents of paras 1, 4, 6 to 12 are true and correct to my personal knowledge and those of 2, 3 & 5 are believed to be true on legal advice. I have not suppressed any material fact there from.

PLACE: CHANDIGARH.

DATED: 4-11-2013

Sd/- H. Singh

APPLICANT(S)