

**E- Court No. 1**

**ARMED FORCES TRIBUNAL, REGIONAL BENCH,  
LUCKNOW**

**Original Application No. 448 of 2020**

Friday, this the 27<sup>th</sup> day of August, 2021

**Hon'ble Mr. Justice Umesh Chandra Srivastava (J)**  
**Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)**

JC-664769W, Sub Rudra Pratap Singh, S/o Kapil Dev Singh,  
Resident of Sector 3E, 5/87, Vrindavan Yojana, Near Sai  
Mandir, Telibagh, Raebareli Road, Lucknow, PIN- 226029.

**.... Applicant**

Ld. Counsel for the: **Shri Pankaj Kumar Shukla, Advocate**  
Applicant

Versus

1. Union of India, through the Secretary, Ministry of Defence,  
101 South Block, New Delhi-110011.
2. Chief of The Army Staff, Integrated Headquarters of the  
Ministry of Defence (Army), South Block, New Delhi-  
110011.
3. Officer-in-Charge Records, Sena Seva Corps Abhilekh  
(Dakhsin), ASC Records (South), PIN- 900493, C/o 56  
APO.
4. Central Organisation ECHS, AG's Branch, IHQ of MoD  
(Army), Maude Lines, Delhi Cantt.-110010.
5. Regional Centre ECHS, 3 Rani Laxmi Bai Marg, Lucknow  
Cantt.

**... Respondents**

Ld. Counsel for the: **Shri Shyam Singh,**  
Respondents. **Central Govt Counsel**

**ORDER**

**“Per Hon’ble Mr. Justice Umesh Chandra Srivastava, Member (J)”**

1. This Original Application has been filed under Section 14 of the Armed Forces Tribunal Act, 2007 for the following reliefs :-

- A. *To issue/pass an order or direction to the respondents to continue the applicant’s son’s treatment for his disease CKD (Chronic Kidney Disease) as per policy letter 22D(15)/2017/WE/D (Res-I) dated 05.12.2017 passed by Government of India, MoD (DoESW).*
- B. *To issue/pass an order or directions to the respondents to decide the representation dated 30.05.2019 preferred by applicant.*
- C. *To issue/pass an order or directions to the respondents to reimburse the bill which has been generated and paid by applicant between April 2019 to till date in the treatment of applicant’s son.*
- D. *To issue/pass any other order or direction as this Hon’ble Tribunal may deem just, fit and proper under the circumstances of the case in favour of the applicant.*
- E. *To allow this original application with costs.*

2. Facts giving rise to Original Application in brief are that applicant was enrolled in the Indian Army on 18.05.1984 and after successful completion of tenure of service he was discharged from service in the rank of Subedar on 31.05.2012. Thereafter, he

acquired membership of Ex-Servicemen Contributory Health Scheme (ECHS) which is meant to provide medical facilities to its members and their dependent children on respondents' costs. The applicant's son Shashi Bhushan Singh, whose date of birth is 30.07.1972, was diagnosed with a Chronic Kidney Disease (CKD) in April 2006 and underwent treatment with Renal Transplantation at Command Hospital (EC), Alipore Calcutta on 10.07.2006 and one kidney was donated by applicant's spouse (Mrs Pramila Devi). After said transplantation kidneys of the applicant's son were functioning properly till January 2014 but between February 2014 to March 2014 kidneys of the applicant's son stopped functioning due to severe infection in his transplanted kidney and kidney failure was declared by Dr. Deepak Diwan, Nephrologist, Ajanta Hospital, Lucknow. Since then his son is under Haemodialysis (twice a week) at Ajanta Hospital, Lucknow on the recommendations of ECHS Polyclinic, Lucknow. His treatment was stopped by the respondents in April, 2019 mentioning that **“Chronic Kidney Disease (CKD) cannot be considered under white card eligibility”**. Thereafter, applicant is bearing expenses of his son's treatment on his own. Aggrieved by the aforesaid acts of the respondents, applicant has preferred a representation dated 30.05.2019 for redressal of grievance i.e. against stoppage of applicant's son dialysis, which is still pending for consideration.

Being aggrieved, applicant has preferred the present Original Application.

3. Learned counsel for the applicant submitted that applicant's son Shashi Bhushan Singh, date of birth 30.07.1992 suffered with Chronic Kidney Disease since April 2006. On the advice of Col Rajvanshi, HOD Nephrology at Command Hospital (Eastern Command), Alipore Calcutta, applicant's son underwent with Renal Transplantation at Command Hospital on 10.07.2006. Between February 2014 to March 2014 applicant's son's kidneys stopped functioning due to severe infection in his transplanted kidney and kidney failure was declared by Dr. Deepak Diwan, Nephrologist, Ajanta Hospital, Lucknow. Since then son of the applicant is under Haemodialysis (twice a week) at Ajanta Hospital, Lucknow. From April 2019 dialysis of applicant's son has been stopped by Ajanta Hospital, Lucknow. Moreover previous bills were also rejected by respondent No 5. Applicant's son is unmarried and his percentage disablement has been assessed as 60%. Learned counsel for the applicant submitted that in pursuance of policy letter No 22D(15)/2017/WE/D (Res-I) dated 05.12.2017 passed by Government of India, MoD (DoESW) and letter dated 08.01.2018, it is clarified that son of ECHS member suffering from any permanent disability of any kind (physical-mental) subject to disability under person with disability (PWD) Act

1995 being 40% or higher is eligible for ECHS benefits irrespective of age limit and irrespective of the fact that he is married or not. Hence in such circumstances, applicant's redressal of grievance should be taken as very important and urgent action be taken by respondents in favour of the applicant. It is also submitted that applicant is ECHS card holder bearing Card ID No CN0099366. Learned counsel for the applicant submitted that in the similar matter (Order dated 31.08.2018 passed in O.A. No 381 of 2018 Dilip Kumar Yadav Vs. Union of India & Others) Hon'ble Tribunal granted interim relief to continue the treatment of patient, hence in this case also applicant is entitled for grant of same. It is alleged that applicant's son's disability is permanent in nature and has been assessed as 60%, and his case being covered under the Government of India, Ministry of Defence letter dated 05.12.2017, he is entitled to treatment as ECHS member like earlier.

4. Per Contra, learned counsel for the respondents submitted that son of the applicant was admitted in Ajanta Hospital & IVF Centre Pvt Ltd for treatment of dialysis. The hospital stated that UTI Infrastructure Technology and Service Limited (ITSL) bill paying Agency (BPA) has recommended the claim for rejection as Chronic Kidney Disease (CKD) cannot be considered under White Card eligibility. He further submitted that Regional Centre ECHS

had asked for clarification about authorization of white card from the Central Org ECHS vide our letter No 1003/Med/Misc/ECHS dated 11 Apr 2019. Central Org ECHS intimated that, son of Sub Rudra Pratap Singh (Retd) is not eligible for ECHS facilities. Central Org ECHS issued advisory regarding provision for applying for white card by on line smart card application for Special Sanction Disability Cases and issue of off line temporary slip. Regional Centre ECHS approached Central Org ECHS for Special Sanction vide letter No 24501/Gen/ECHS dated 04 Jun 2019. The direction on the subject case is awaited from Central org ECHS till date. The hospital has been directed by the respondents to continue the treatment of the applicant's son with immediate effect. Learned counsel for the respondents submitted that representation of the applicant is under consideration. Applicant shall be informed its outcome once it is decided. On humanitarian ground every action has been taken to assist the son of the applicant but since son of the applicant is not entitled for ECHS facility, Original Applicant is liable to be dismissed.

5. We have heard learned counsel for the parties and perused the record.

6. Admittedly, applicant became the member of ECHS, a Scheme meant to provide medical facilities to Ex-Servicemen and their dependent children, after being discharged from the service

of Army. It is also an admitted fact that applicant's son Shashi Bhushan Singh, whose date of birth is 30.07.1992, was diagnosed with Chronic Kidney Disease, CKD, in 2006 and underwent treatment for the said disease in the Nephrology Department of Command Hospital, Lucknow. It is also an admitted fact that both Kidneys of the applicant's son have failed and stopped functioning since 2014 and, for this, he was being given treatment of dialysis at Ajanta Hospital, Lucknow, a hospital shortlisted by the respondents under ECHS. It is also an admitted fact that applicant's son who was earlier being treated for the disease CKD at Ajanta Hospital, Lucknow, his treatment has been stopped since April, 2019 on the premise that disease he is suffering with is not included in the list of disabilities under PWD Act, 2016. It appears that respondents acted in a very casual manner in stopping the treatment to applicant's son without taking the fact into consideration that he is suffering with serious ailment of kidney having threat to his life and without caring that while discharging the duties they are under obligation to see that no one is harmed and by giving treatment they are saving some one's life. They are supposed to take practical as well as compassionate aspects also while cancelling/ withdrawing any policy/letter.

7. Govt of India, Min of Def letter dated 05 December 2017 clarifies entitlement criteria for grant of ECHS facilities to dependents. Relevant paras of this letter reads as under:-

1. to 3. x x x x

4. *According to MoD letter No 18(01)/2011/US(WE)/ dated 31.10.2012, the rule for dependents of ECHS members would be the same as applicable in CGHS.*

5. *Further OM No 4-24/96/C&P/CGHS(P) dated 31.05.2007 clearly provides that a CGHS beneficiary having a son suffering from any permanent disability of any kind (physical or mental) would be eligible for CGHS medical facilities irrespective of the age limit of 25 years. A careful reading of the same order also indicates clearly that this category of dependent sons would be eligible for CGHS facility irrespective of getting married or remaining unmarried.*

6. *The amount of disability in which case the dependent son will be eligible for CGHS benefits has been decided at 40% or more of one or more disability as defined in section 2 (i) of Persons and Disabilities (equal opportunities Protection of Rights and Full Participation). Act 1955 and Clause (j) of Section 2 of National Trust for Welfare of Persons with Autism Cerebral Palsy, Mental Retardation and Multiple Disability Act 1999 provided the dependent son are financially dependent on the CGHS members.*

7. *From the above it is clear that as per existing rules the son of ECHS member suffering from any permanent*

*disability of any kind (physical/mental) subject to disability being 40% or higher in terms of the relevant Acts, mentioned above is eligible for ECHS benefit irrespective of age limit and irrespective of the fact that he is married or not.*

8. *Hence there is no need for any further order as proposed in the DGL.*

9. *It is stated that the order of the Department No 02(03)/2040 D(Pen/Policy) dated 17.01.2013 relates to grant of pension. These norms cannot be made applicable mutatis mutandis to medical matters. For medical matters we need to go by the eligibility criteria framed by CGHS.*

10. *x x x x .*

8. A bare reading of above policy show that disabled son having disability more than 40% or higher is eligible for ECHS benefits irrespective of age limit and irrespective of the fact that he is married or not. The person should not be in a condition to earn his livelihood whereas in the instant case son of the applicant has been assessed 60% disability and not a earning member.

9. In similar matter in **O.A. No 381 of 2018, Dilip Kumar Yadav vs. Union of India & Others** decided on 31.08.2018, this Tribunal has passed order to continue the treatment on ECHS card considering the fact that the life of a person is at stake and if treatment is kept continue, then no irreparable loss can be presumed to be caused to the respondents. The Tribunal also

observed that balance of convenience and prima facie case was also in favour of the applicant.

10. Case of the applicant's son should be treated as special case for providing ECHS benefit to son of the applicant as his son is already under treatment of ECHS since 2014. It is duty of the respondents to provide every possible help to a soldier, whose son is struggling for life, who has dedicated 28 precious years of his life in service of the nation.

11. In view of the above, the Original Application is **disposed of** with the direction to respondents to decide the representation of the applicant immediately and provide special sanction for the treatment of son of the applicant on humanitarian grounds so that treatment of the son of applicant can be kept continue and amount expended on treatment can be re-imbursed to him.

12. No order as to costs.

(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava)  
Member (A) Member (J)

Dated: 27 August, 2021

Ukt/-