

**E- Court No. 1**

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

**Original Application No. 448 of 2019**

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 consideration 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.

7. As per ECHS Rules son/daughter of ex serviceman are entitled medical facilities upto the age of 25 years but Shashi Bhushan Singh has attained age of 27 years, hence he is not entitled for ECHS facilities. It is true that applicant's is suffering with CKD and as per Government of India, Ministry of Defence letter dated 05.12.2017, as eligibility for ECHS benefit to the son of ECHS member being subject to PWD Act, 2016 and the disease applicant's son is suffering with being no included in the list of disabilities under the PWD Act, 2016, his treatment has been rightly stopped. Case of the applicant's son cannot be treated as special case for providing ECHS benefit to him as Policy letter No B/49711-NewSmartCard/AG/ECHS date 15.05.2019 in this regard has been cancelled by the respondents vide their letter of even number dated 01.10.2019. It is evident that earlier only five disabilities were included in PWD Act, 1995 for providing ECHS benefits to the son of ECHS member which was later extended to seven disabilities, but kidney disease was

never included therein. After PWD Act, 2016 being come into existence the area of list has been extended to 21 disabilities but kidney disease has still not been included in the list. Respondents have annexed the copy of letter dated 22.05.2019 with their Counter Affidavit mentioning therein the 21 disabilities in regard to which the ECHS benefits have been extended to the dependent son of ECHS member. Ld. Counsel for the respondents has also conceded that kidney disease was never included in the list of disabilities meant for extending the benefit of ECHS membership to the dependents of ECHS members. He has also conceded that despite this being the position, applicant's son, who is suffering with permanent disability of kidney and which has been assessed at 60%, benefit of ECHS membership was uninterruptedly extended to him from 2015 to Apr, 2019. Kidney disease being not included in the list of 21 disabilities under the PWD Act, 2016, the benefit of ECHS extended to applicant's son, since 2015 has been stopped since April, 2019. In the case referred by the applicant, it has been mentioned that this case shall not be treated as authority.

8. In view of the above, the Original Application is devoid of merit and deserves to be dismissed. It is accordingly **dismissed**.

9. No order as to costs.

**(Vice Admiral Abhay Raghunath Karve) (Justice Umesh Chandra Srivastava)**

**Member (A)**

**Member (J)**

Dated: 27 August, 2021  
Ukt/-