



सत्यमेव जयते

न्यायालय मुख्य आयुक्त निःशक्तजन  
Court of Chief Commissioner for Persons with Disabilities  
सामाजिक न्याय एवं अधिकारिता मंत्रालय  
Ministry of Social Justice & Empowerment  
निःशक्तता कार्य विभाग / Department of Disability Affairs

**Case No.226/1141/2013**

**Dated:- 01.04.2014**

**In the matter of:**

Shri Darshan Lal,  
Assistant Director (OL),  
Government of India Press,  
Ring Road, Mayapuri,  
New Delhi-110064.

..... Complainant

Versus

Ministry of Health & Family Welfare,  
Through - Secretary,  
Nirman Bhawan,  
New Delhi-110108..

..... Respondent

**Date of hearing : 13.03.2014**

**Present :**

1. Shri Darshan Lal, Complainant.
2. S/Shri Arun Chaudhury, Under Secretary on behalf of respondent.

**O R D E R**

The above named complainant filed a representation dated 10.07.2013 under the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, hereinafter referred to as the Act regarding simplifying the procedure for reimbursement of charges to special Nursing and Ayah/Attendant for taking special care of persons with severe and profound disabilities.

2. The complainant submitted that Ministry of Health & Family Welfare vide O.M. No.S-14025/74/86-MS dated 30.10.1991 had stipulated arrangement for reimbursement of special nursing and Ayah/Attendant charges limited to the amount which is in excess of 25% of the pay of the Government Servant. To simplify the existing procedure, subsequently, ceiling rates of Special Nurse and Ayah/Attendant have been fixed vide Ministry of Health & Family Welfare's O.M. No. S-14025/8/2010-MS dated 18.01.2011 subject to the condition that for such purpose a certificate from the medical officer incharge of the case in the hospital duly countersigned by the Medical Superintendent of the Hospital is required to be produced in the prescribed form. His contention was

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that while the procedure for reimbursement of special charges is stated to be simplified. The Medical Officers ask to bring 100% disabled child to the hospital which is very difficult for the parents. Besides this, the ceiling rate which is fixed for a shift of 12 hours is too less. That is why neither the Special Nurse nor Special Attendant/Ayah is willing to take special care of children with severe and profound disability. For the welfare of disabled children, the complainant suggested that the rates be fixed for 8 hours of shift, revise the ceiling rate upward and payment should be made on production of disability certificate issued by the competent authority. In case of any doubt, necessary verification may be carried out by the concerned controlling authority.

3. The matter was taken up with the Ministry of Health & Family Welfare, New Delhi vide this Court's letter dated 01.08.,2013 followed by reminder dated 10.12.2013.

4. Ministry of Health and Family Welfare vide letter No.S.14025/08/2010-MS dated 06.09.2013 submitted that the matter needs thorough examination with reference to case records on the basis of which the representations have been made. Accordingly, the case file/records from Shri Darshan Lal, AD(OL), Government of India Press have been sought for examination of the issue for further action in this regard. The Ministry would send the final decision/comments to Court in due course of time on the basis of detailed examination in consultation with Directorate of GHS.

5. A copy of the reply dated 06.09.2013 received from the respondent was forwarded to the complainant vide this Court letter dated 26.09.2013 for his information. The complainant vide his letter dated 123.12.2013 inter-alia submitted that it is not the matter of his personal case but it is a general issue of simplification of procedure introduced by Ministry of Health & Family Welfare. The Ministry of Health & Family Welfare misunderstood the prime and general aspect of his representation dated 10.07.2013. He also pointed out that on one side Ministry of Health & Family Welfare introduced O.M. No.S-14025/8/2010-MS dated 18.01.2011, in which it has been stated that the procedure of reimbursement of special nursing and ayah/attendant charges have been simplified on the other side the procedure has been made difficult to some extent as medical officers again and again ask parents to bring 100% disabled child to the hospital.

6. Upon considering the replies dated 06.09.2013 and 29.12.2013 respectively of the respondent and the comments/rejoinder dated 23.12.2013 of the complainant, a hearing was scheduled on 13.03.2014.

7. During the hearing, reiterating his written submissions, the complainant added that his specific request is for revising ceiling rates for special Nursing and Ayah/Attendant as fixed under the Ministry of Health & Family Welfare's O.M. dated 18.01.2011. His second request was for simplification of the procedure in respect of persons with severe and profound disability. Such persons/their parents should be reimbursed the expenses on production of the Disability Certificate issued by the Competent authority. He further submitted that as per the clarification given by Directorate of Printing, Ministry of Urban Development vide their O.M. No.D-12015/50/2013/A-II dated 14.11.2013, the reimbursement of charges for special nurse and ayah/attendant is admissible during in-patient treatment in a Government hospital as long as the patient remains admitted in Government hospital. A copy of the said O.M. has been placed on record. The complainant's interpretation of the said

clarification is that if a person with disability remains in hospital for life, the reimbursement would be application for life. He also questioned as to why there should be a need for engagement of nurse/Ayah/attendant if a patient is admitted in the hospital since the employees of CS(MA) beneficiaries are covered under CS(MA) Rules, 1944 keeping in view the entire set up which includes nurses, medical doctors etc. etc. in the hospital. The complainant wanted the representative of the respondent to make a statement to justify engagement of Nurse/Ayah/Attendant for an in-patient.

8. The representative of the respondent at the outset submitted that the O.M. dated 18.01.2011 of the Ministry of Health & Family Welfare is applicable only to the CS(MA) beneficiaries who are recuperating after hospitalization irrespective of whether such a person is with or without disability. Therefore, on the basis of the Disability Certificate alone, reimbursement cannot be made since it is for a limited period. The representative of the respondent submitted that the Ministry of Health & Family Welfare has already given the clarification to the Ministry of Urban Development. In the present case, the discussion should confine to the policy with regard to the ceiling for reimbursement of special Nursing and Ayah/Attendants charges to the employees covered under CS(MA) Rules, 1944 vide O.M. No.S.14025/8/2010-MS dated 18.01.2011. The complainant has brought in the issue relating to his personal claim which is under consideration. He cannot comment on the same.

9. From the discussion, it also transpires that the complainant may be facing problems in getting the reimbursement in respect of special Nursing charges for his son with cerebral palsy with profound mental retardation. He may, therefore, take up that matter separately, if he so desires.

10. It is observed that the policy in question is not meant exclusively for persons with disabilities but persons with disabilities who are in the Central Government service or the beneficiaries of CS(MA) may also happen to avail the facility at some point of time. Therefore, to that extent the question of availability of the services of Nurse/Ayah/Attendant at the prescribed rates would be relevant as far as this Court is concerned. This also appears to be a larger issue which Ministry of Health & Family Welfare may examine keeping in view the need to comply the relevant provisions relating to Minimum Wages Act.

11. In the light of the above submissions, the question of allowing reimbursement of the charges on production of Disability Certificate in respect of persons with severe and profound disability would not arise.

12. The case stands disposed off accordingly.

Sd/-

( P.K. Pincha )  
Chief Commissioner  
for Persons with Disabilities