

**AMENDMENT IN THE FEDERAL SERVICES
MEDICAL ATTENDANCE
RULES, 1990**

Report No.62

Amendment In The Federal Services Medical Attendance Rules, 1990

The Federal Services Medical Attendance Rules 1990 have been framed by the Federal Government in exercise of powers conferred under Section 25 of the Civil Servants Act, 1973 (LXXI of 1973), to provide medical facilities to all those family members of a government servant, who are dependent upon him. Clause (d) of rule 2 of the above mentioned rules defines family as under:-

“Family” means parents, husband, wife, legitimate children and step children of government servant’s parents, sister and minor brothers residing with and wholly dependent upon him.

However, according to the Explanation under the said clause (d) the second wife has been deprived of these benefits and the very fact of her being a family member and legally wedded wife has been denied. Explanation 4 under clause (d) of rule 2 of the said Rules reads as under:-

“In case of more than one wife, the wife nominated by the Government Servant to receive medical attendance and treatment will be entitled to it”

The above said explanation was challenged in the Federal Shariat Court vide Shariat Petition No.52 (I) of 1991 on the ground that it is repugnant to the injunctions of Islam. However the petition was dismissed with the observation that the grant of this concession to only one wife which is settled in the terms and conditions of employment, is not against the injunctions of Islam which rule also equally applies to Muslims and non-Muslims. ¹

The decision of the Federal Shariat Court was challenged in the Supreme Court vide Shariat Appeal No.76 of 1992. It was observed by the Supreme Court that the intention of the author of the Rules is to provide medical facilities to all those family members of a government servant who are dependent upon him. Even the brothers, sisters, step sons and step daughters are included in the list of beneficiaries regardless of their number. Only the second wife has been deprived of these benefits and the very fact of her being a family member and her status as a legally wedded wife has been denied which does not appear to be consistent with the scope of definition of family and is also un-justified for other reason like equal treatment of Muslim and non-Muslim government servants. A Muslim is allowed to have more than one wife upto four if he is capable of maintaining equality between them. Therefore, Explanation 4 of Rule 2(d) of the Federal Services Medical Attendance Rules 1990, which does not recognize the said Quranic permission, is violative of the Injunctions of Islam. It was further directed that this decision shall take effect on 31st August, 1993 whereby the impugned Explanation under Rule 2 (d) shall cease to have effect.

¹PLD 1992 FSC 527

It is pertinent to note that the said Explanation 4 which has ceased to have its effect since 31st August, 1993 under the directions of the Apex Court, has not been omitted so far by the concerned Ministry i.e. Ministry of Health.

The matter is submitted for consideration of the Commission for recommending the Federal Government, provincial governments to omit explanation 4 of Rule 2 (d) *ibid* and for the word “wife” the word “wives” be substituted in Clause (d) of Rule 2 *ibid*.

The Commission in its meeting held on 11 October 2003 considered the above proposal and approved the proposed draft Notification seeking to amend the Medical Attendance Rules of Government Servants to include second wife, if any, in the definition of family of the “government servant” to become eligible for medical facilities. The draft seeks to bring the Medical Attendance Rules in conformity with a ruling of the Supreme court.

Annex

NOTIFICATION

S.R.O----- (1)/2003. In exercise of the powers conferred by Section 25 of the Civil Servants Act 1973, the President is pleased to direct that the following amendments shall be made in the Federal Services Medical Attendance Rules 1990, namely:-

In the aforesaid Rules, in rule 2.-

- (i) in clause (d), for the word “wife” the word “wives” shall be substituted; and
- (ii) the Explanation (4) shall be omitted.