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Central Administrative Tribunal
Principal Bench

O.A. No.602/2002

New Delhi this the 20th day of December, 2002

Hon'ble Shri Shanker Raju, Member (J)

K.L. Gupta Son of Shri H.L. Gupta
Resident of C-2/103 West Enclave,
Pitampura, Delhi-110034.

-Applicant

(By Advocate: Shri V.P. Trikha)

Versus

1. The Director General,
Employees State Insurance Corporation,
Kotla Road, New Delhi-110002.

2. The Director (Medical),
ESI Hospital Complex,
Bassai Darapur, Outer Ring Road,
New Delhi -110015.

-Respondents

(By Advocate: Ms. Jyoti Singh)

ORDER

Applicant, a pensioner of ESI impugns respondents' order dated 23.10.2001, whereby his request for further re-imbusement has been turned down. Applicant seeks re-imbusement of the balance amount of Rs.21,695/- alongwith interest.

2. Applicant, who retired from ESIC had contributed towards medical benefits as a pensioner. Applicant is a heart patient and in the intervening night of 21.1.99/22.1.99 his condition became very serious. He was taken to the nearest medical institution, i.e., Jaipur Golden hospital. As there was no conveyance available and due to odd hours he could not be taken to ESI Hospital at Basai Darapur, which is 8 kilometer from the residence of applicant. Applicant was admitted and discharged on 31.1.99. The hospital authorities at Jaipur Golden Hospital raised a bill of Rs.30,36/-. Apart from it applicant also

incurred Rs.4,366/- on the medicines. Applicant prayed for re-imburement of the medical expenses and despite his persistent requests to the respondents his representation was forwarded and ultimately a sum of Rs.13,070/- out of the total sum of Rs.34,765/- was refunded.

3. Learned counsel for applicant Shri V.P. Trikha contends that applicant was admitted in ICCU at Jaipur Golden hospital and was charged by the hospital for which bills have been submitted to ESIC and he has already contributed for life for medical expenses as a pensioner and in emergency case he had no option but to report to the nearest hospital and referral at that time was not possible. Placing reliance on re-imburement of expenses incurred in respect of medical treatment as provided in ESI Medical Manual it is stated that in case of serious illness where a pensioner is directly admitted to hospital or non-recognized hospitals on account of heart-attach medical reimbursement is permissible. He places reliance on Section 17 of the ESIC Act, to substantiate his plea.

4. Applicant's counsel further states that the case of applicant was of emergency nature and he required immediate medical aid. ESIC authorities can even re-imburse the medical treatment even at their own, as laid down in ESI Manual but they have not done so, which smacks of discrimination, violative of Articles 14 and 16 of the Constitution of India.

13

5. On the other hand, learned counsel for respondents contended that applicant who is a pensioner has not submitted the prescription slip along with his medical claim for which he was directed and the same is essential for the medical claim, as Ministry of Health informed the respondents through letter dated 4.12.2000 to reimburse at AIIMS rates. The serving employees/pensioners are not entitled for re-imbursement for the treatment taken from private hospital without being referred by the ESI hospital. The request of applicant was sympathetically considered and the amount at the AIIMS rates was paid to applicant. By referring to the decision of the Division Bench in OA No.1879/2002, Harpran Singh Puri v. The Director General, ESIC & Anr. decided in April, 2002 it is stated that the same controversy was gone into and it was held that para 24 of the request relating to service condition cannot assist applicant and he would not be entitled to full re-imbursement contrary to the Scheme applicable to retired ESIC employees.

6. By referring to the agenda of the meeting held on 6.7.73 wherein the same has been approved, it has been laid down that the medical facilities under ESI Scheme to ESI pensioners has been extended to New Delhi and as applicant was contributing in a slab of Rs.15/- per month he is entitled for the general ward and was accordingly paid and as he is not entitled for special ward at Jaipur Golden his claim cannot be countenanced. Moreover, it is stated that applicant is not a CGHS beneficiary and any comparison with CGHS is not appropriate.

7. I have carefully considered the rival contentions of the parties and perused the material on record. As per the provisions for medical reimbursement approved by the Standing Committee all the employees and the ratio laid down by the Division Bench, which is binding on me, without any referral complete reimbursement cannot be accorded to applicant. However, respondents have on the basis of advice tendered by the Ministry of Labour on sympathetic consideration reimbursed a part of the medical expenses incurred by applicant at the AIIMS rates on the footing that had the applicant taken treatment in government hospital after referral he would be entitled for the same. Another pensioner Shri Puri had approached the Tribunal seeking full medical reimbursement and the claim was rejected by the Division Bench of this Court on the ground that maximum limit admissible under existing ESI rules and regulations has been given to applicant an para 24 of the 1959 Regulations would not apply to his case.

8. I have gone through the decision of the Division Bench and other relevant consideration and the material placed by the respondents. The claim of applicant cannot be countenanced as without an referral medical re-imbursement is not possible as per rules and regulations. As the treatment was taken in emergency the respondents have already accorded to applicant re-imbursement at the AIIMS rates and beyond which it is not possible as per the rules.

15

9. Moreover, it is stated during the course of the arguments by the learned counsel for respondents that regarding cost of medicines applicant has not filed his prescription slip to which Sh. Tirkha stated that the same have been annexed with the OA. Ends of justice would be duly met if the applicant presents all his prescription slips before the respondents, who may consider the same for according the actual expenses, i.e., costs of medicines incurred by applicant, within a period of two months from the date of submission of the prescription slips.

10. Subject to the aforesaid observations OA is dismissed. No costs.

S. Raju
(Shanker Raju)
Member (J)

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