

Central Administrative Tribunal
Principal Bench

O.A.No.2064/2002

Hon'ble Shri Shanker Raju, Member(J)

New Delhi, this the 17th day of January, 2003

B.K.Rehani
r/o 28-A, Old Arya Nagar
Ghaziabad (UP). ... Applicant

(By Advocate: Sh. Yogesh Sharma)

Vs.

1. Union of India through
The General Manager
Northern Railway
Baroda House
New Delhi.
2. The Divisional Railway Manager
Northern Railway
Delhi Division
Near New Delhi Rly. Station
New Delhi.
3. The Chief Medical Director
Northern Railway Headquarters
Baroda House
New Delhi.
4. The Chief Medical Supdt.,
Northern Railway Divil. Hospital Delhi
Near Old Delhi Jn. Railway Station
Delhi. ... Respondents

(By Advocate: Sh. V.S.R.Krishna)

O R D E R(Oral)

By Shri Shanker Raju, M(J):

Heard the parties.

2. Claim of applicant is directed against an order passed by respondents on 18.2.2002 rejecting his claim for medical reimbursement on the ground that planned surgery got done in private hospital by applicant, despite facilities available in Railway Hospital.

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3. Applicant's counsel stated that applicant had earlier approached the Railway Hospital and he was put on operation and during the operation, as they noticed light bleeding they stopped the operation and he was referred to Dr. Bhargava's Hospital for stenting instead of full prostrate operation on 22.9.2001 and was discharged from Railway Hospital. Applicant was also suffering due to Angina and in emergency he approached the nearest hospital, i.e. St. Joseph Hospital, Ghaziabad where he was admitted for TURP (Operation) which he substantiated by producing the OPD record ^{of} the concerned hospital. He further stated that alongwith his representation, made to the respondents, he has annexed relevant documents which have not been taken into consideration.

4. Applicant's counsel, by resorting to decision of the High Court of Delhi in S.P.Kapur v. Union of India (CW No.5490, decided on 27.7.1999), ~~he~~ ^{he} contended that in a situation of emergency, if a person rushed to a nearest hospital to save his life, medical reimbursement for the treatment taken in emergency, cannot be denied, despite the Hospital is not recognised.

5. Sh. V.S.R.Krishna, learned counsel vehemently denied the contentions and stated that there is nothing on record to indicate that applicant had rushed to the private Hospital in case of emergency and having not produced any material to indicate that he was suffering from Angina, the claim of applicant cannot be acceded to as the same is not made in accordance with the rules.

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6. I have carefully considered the rival contentions of the parties and also perused the records.

7. Having regard to the decision of the High Court of Delhi supra, in case of emergency to save one's life if a Government servant admits himself to a private hospital, even though such a hospital was not recognised, he cannot be denied reimbursement but before that the fact of emergency is to be established.

8. From the perusal of the OPD record, it transpires that on 18.9.2001, applicant was admitted to the Hospital on a complaint of Angina. This record has not at all been taken into consideration by respondents while rejecting the claim of applicant. For this reasons, the impugned orders issued by respondents are not sustainable.

9. OA is accordingly partly allowed by setting aside the impugned orders. I^h direct the respondents to re-examine the claim of applicant in the light of the decision of the High Court as well as medical record to be produced by applicant, within^h two weeks from the date of receipt of a copy of this order. In the event the same is admissible, necessary reimbursement be made to applicant within a reasonable time. No costs.

S. Raju
(SHANKER RAJU)
MEMBER(J)

/rao/