

4

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH NEW DELHI

O.A. NO. 1516/2002

NEW DELHI THIS 8TH DAY OF AUGUST 2002

HON'BLE SHRI GOVINDAN S. TAMPI, MEMBER (A)

R.P. Agarwal S/o Late Sh. Jyoti Prasad,
B-L-122, L. Block
Hari Nagar, New Delhi - 110064

.....Applicant

(By Applicant in person)

VERSUS

1. Union of India
through The Secretary,
Ministry of Health & Family Welfare,
Nirman Bhawan, New Delhi
2. The Director General,
Health Services, Min.of Health,
Nirman Bhawan, New Delhi
3. The Director,
Central Government Health Scheme,
Nirman Bhawan, New Delhi

.....Respondents

(By Shri Rajeev Bansal proxy Advocate)

O R D E R (ORAL)

BY HON'BLE SHRI GOVINDAN S. TAMPI, MEMBER (A)

Relief sought for in this OA are as under-

- i) quash the circular dated 25.10.2001 issued by respondents in so far as it restricts re-imbursement of Medical expenses to the package rules approved in 1996;
- ii) quash the letter dated 5.12.2001 issued by the CGHS Dispensary Hari Nagar New Delhi which restricts the reimbursement to the package approved in 1996;
- iii) direct the respondents to reimburse the applicant the balance amount of Rs.38,837/- alongwith interest @12%.
- iv) award cost to the applicant.

2. Shri R.P. Agarwal, the applicant appeared in person while Shri Rajeev Bansal learned proxy counsel represented the respondents.

-2-

3. The applicant who retired as Jt. Secretary and legal Advisor in the Ministry of Law is a CGHS beneficiary for life. During December 2001 following a cardiac problem he consulted the Medical Officer in RML Hospital, who suggested CABG for which Chief Medical Officer, CGHS Dispensary Hari Nagar referred him to Batra Hospital on terms and conditions stipulated in the OM dated 18.9.96. In terms of the above OM expenditure permitted to be incurred by the applicant stood at Rs. 99,000/- plus 15% for private Ward entitlement Rs. 14,850/- (Total Rs. 1,13,850/-). The applicant underwent CABG at Batra Hospital on 18.12.2001 where from he was discharged on 27.12.2001. The Hospital charged the applicant for Rs. 1,50,774/- in addition to which the expenses of Rs. 1,913/- was incurred by the applicant. In the above circumstances the applicant had to pay an amount of Rs. 38,837/- from his pocket. It is further pointed out that in terms of OM No. REC-24/2001/JD(M)/CGHS/Delhi (P) dated 7.9.2001 the package rates approved for CABG conducted in a number of hospitals was fixed at Rs. 1,33,650/- plus 15% towards Private Ward. According to the applicant he also should have been paid the same rate, or what was actually incurred by him, whichever was less. This has not been done and hence this O.A.

4. Grounds raised in the OA are :

- i). that while the treatment charges for the treatment undertaken in newly approved "B" Grade Hospitals stood at Rs. 1,33,650/- plus 15% in terms of OM dated 7.9.2001, charges for the treatment in "A" Grade Hospital continued to be at Rs. 99,000/- plus 15%;
- ii) the rates prescribed in 1996 cannot be made applicable in 2001; and
- iii) prescription of lower package rates for "A" Grade Hospital is against the higher package in "B" Grade Hospitals was improper;

-3-

4. The above points were strongly re-iterated by Shri Aggarwal during oral submissions wherein he pointed out that the terms in the Ministry's OM dated 25.10.2001 that the re-imbusement in respect of certain hospitals including Batra Hospital will be restricted to package rates approved on 18.9.1996, was totally incorrect as it was clearly mentioned in para 8 of 1996 OM that "the rates will remain on force for 2 years effective from the date of issue of OM", Shri Agarwal therefore prayed that he was fully entitled for the rates prescribed on 7.9.2001, more so as per para 17 of the said OM indicate that it supersedes all earlier orders relating to recognition of hospitals, diagnostic centres and rates for specialised and general treatment /diagnostic tests. Shri Agarwal also relied upon the decision of the Hon'ble Delhi High Court in the case of B K Gupta Versus Union of India & Others passed in CW No. 4306/2001 dated 5.4.2002, which covered an identical situation and therefore supported his case.

6. In the reply filed on behalf of the respondents and re-iterated by Shri Rajeev Bansal, learned proxy counsel for the respondents it is pointed out that in terms of assurance given in the Parliament an agreement was sought to be drawn between the private hospitals and diagnostic centres recognised under CGHS and the Government so as to save the beneficiaries from the burdend of payment higher charges but certain Hospitals mentioned in Circular dated 25.2.2001 including Batra Hospital did not agree for the same and therefore charges in respect of those Hospitals

-4-

-4-

were maintained at the approved rates of 18.9.96. Batra Hospital has now been recognised with the new and revised rates on 15.3.2002. The applicant in this case had taken treatment from Batra Hospital at the time the old rates were prevalent and therefore he could have been reimbursed only to the extent of Rs. 1,13,850/-. The applicant had to bear the balance. He cannot, therefore, claim that he should have been paid at the revised rates. Shri Bansal pointed out that the respondents were not against the applicant in any way but could grant to him only what was provided for. OA therefore has to fail, according to Shri Bansal.

7. I have carefully considered the matter and I am convinced that the applicant has a strong case. As correctly pointed out by him, the rates prescribed by OM dated No. 2/6/96-JCA dated 1.11.96 in respect of Hospitals was to be in force only for a period of two years from the date of its issue and the rates prescribed by the revised OM dated 7.9.2001, ^{were} ~~was~~ to supersede all the earlier orders on the subject. In the circumstances, the applicant could not have been forced to have reimbursement at the earlier and lower rates, as the respondents have done. His case also gains total support from the decision of Delhi High Court in the case of B.K. Gupta Vs UOI and others in identical circumstances. Relevant extract from the judgement is reproduced below. The applicant having taken the treatment in Batra Hospital, in terms of reference from the Chief

-5-

Medical Officer, CGHS, Hari Nagar, there was no reasonable ground to have denied him full reimbursement, which has been granted in respect of treatment in other hospitals. Further w.e.f. 3.2.2002 treatment in Batra Hospital also had been recognised for reimbursement at the revised rates.

8. In the above view of the matter the OA succeeds and accordingly allowed. Respondents shall grant to the applicant reimbursement of the balance amount of Rs. 3,8,837/- . This shall be done within two months from the date of receipt of a copy of this order. I am not passing any order on the validity or otherwise of the circular challenged by the applicant, as the same was not felt necessary to adjudicate this O.A. No costs.

(Govindan S. Tampi)
Member (A)

Patwal/