

**CENTRAL ADMINISTRATIVE TRIBUNAL
MADRAS BENCH, CHENNAI**

Original Application No. 310/01140 of 2014

Today, this 29th the day of February, 2016

CORAM: HON'BLE SHRI R. RAMANUJAM.... MEMBER (A)

R. Sridharan,
Son of V. Ramamoorthy,
3A, West Moor, Wingate Garden,
No.4, School Road, R.A. Puram,
Chennai- 600 028.

.....Applicant

[by Advocate: M/s. V. Ajoykhose]

Vs

1. The Regional Provident Fund Commissioner,\
TN/Pondicherry
No.37, Royapettah High Road, Chennai- 600 014;
2. The Additional Central Provident Fund Commissioner
TN/Pondicherry
No.37, Royapettah High Road, Chennai- 600 014;
3. The Assistant Central Provident Fund Commissioner,
TN/Pondicherry
No.37, Royapettah High Road, Chennai- 600 014;
4. The Central Provident Fund Commissioner,
Bhavishya Nidhi Bhavan,
No.14, Bhikaji Cama Place,
New Delhi- 110 066;
5. The Secretary to Government,
Ministry of Labour,
Shram Shakti Bhavan,
New Delhi- 110 001.

.....Respondents

[by Advocate: Mr. C. Kulanthaivel]

Reserved on 25.02.2016

ORDER

Per: R. Ramanujam, M(A):-

This is a case regarding medical reimbursement and the applicant filed the O.A. seeking the following relief:-

"to call for the records related to the impugned orders dated 14.08.2013 made in 'No.TN/ADM II(5)/MED/REGL/2013 on the file of 3rd respondent and to quash the same and further to direct the Respondents to reimburse the balance amount of Rs. 96,542/- with interest at 12% p.a. from the date of making representation dated 19.12.2012 to till date of payment and costs."

2. The brief facts of the case as stated by the applicant are that the applicant is a retired Upper Division Clerk (SG) from the office of the 1st Respondent. He is governed by CSMA Rules for the Medical reimbursement of expenses to him and his family. His mother who was 78 years old sustained fracture injuries on her shoulder and fell down in the toilet on 21.11.2012. In order to obtain treatment for her immediately, he got her admitted to B.S.S. Hospital, Mandaveli, Chennai-600 028. On 25.11.2012, she underwent "pad" surgery and was discharged from the hospital on 02.12.2012. In the Discharge summary it is mentioned that she was "Admitted as an emergency case". The CS (MA) Rule provides for the relaxation of the Rules, if the emergency warrants. Therefore, the applicant had not committed any irregularity in admitting his mother to an unrecognized hospital.

3. The applicant claims to have spent a sum of Rs. 1,21,785/- towards the said treatment. He made a request by letter dated 19.12.2012 for the reimbursement of the medical expenses. The 1st Respondent by letter TN/ADMII/MED/REGL/2013 dated 17.04.2013 sanctioned a sum of Rs. 25,243/- only. Nothing was mentioned about the balance of the money claimed. The applicant, therefore, made a representation dated 6.5.2013 to the 1st Respondent to sanction the balance amount and invited the 1st respondent's attention to the judgment dated 20.12.2012 of the CAT Bangalore Bench, made in OA No. 65/2012 on the same issue. The 3rd Respondent, however, sent a reply dated 14.08.2013 stating that the amount sanctioned to the applicant was correct and as per CS (MA) Rules. Any demand for the full payment was beyond the scope of CS (MA) rules. The judgment in the case relied upon by the applicant was only applicable to that case.

4. It is submitted that the CGHS rules are not applicable to the applicant and that the CS (MA) Rules alone are applicable. As there were no approved rates under CS(MA) Rules, the applicant made a representation dated 19.09.2013 to all the Respondents requesting them to look into the matter and sanction the balance amount. The applicant had not received further communication thereafter. He posted a reminder to 4th Respondent on 10.06.2014 requesting for early action and for reimbursement of the balance money. There was no communication from either the 4th Respondent or any of the other respondents. Hence, this O.A.

5. The respondents have filed a reply contesting the claim on the ground that the hospital in which the applicant's mother was treated is not a recognized hospital under the CS(MA) Rules. The applicant's claim was processed in relaxation of CS(MA) Rules and an amount of Rs. 25,243/- only was sanctioned to the applicant as per package rate for ORIF surgery. The applicant could not rely on the directions of the Central Administrative Tribunal, Bangalore Bench in O.A. No. 65/2012 as the reimbursement claim in that case was for treatment in a recognized hospital. A copy of rates applicable for various treatments notified by the Central Government and comparative statement indicating the amount claimed by the applicant and the amount that qualifies for reimbursement as per package rate are attached to the reply as Annexures -R1 & R2 respectively. It is submitted that had the applicant taken treatment at a recognized hospital, his case would be covered by the judgment of the Hon'ble C.A.T. Bangalore Bench and the Hon'ble High Court of Karnataka, according to which, the actual amount paid to a recognized hospital is reimbursable. It is also submitted that the office of the Respondent No.4 after examining the matter in detail placed it before the Executive Committee of the CBT, EPF in its 78th Meeting held on 05.03.2014. It was decided by the committee that "Reimbursement shall be governed as per existing instructions of Government of India. The atypical cases where payments are being released in compliance with directions of Hon'ble Courts be compiled as reference booklet and similar cases be regulated accordingly." Accordingly, instructions were issued on 16.06.2014 as follows:-

"The claims shall be regulated for reimbursement subject to the rates/ceiling, terms and conditions prescribed under the CS(MA) Rules, 1944/CGHS/actual cost, whichever is lower and as per instructions of Govt. of India."

The applicant's claim had been correctly processed in terms of these instructions, it is contended.

6. Heard the applicant in person and the learned counsel for the respondents.

7. The applicant submitted that his mother was treated in a non-recognized hospital because of an emergency and that the relevant rules provide for a relaxation of the condition regarding treatment in a recognized hospital in such a situation. As a matter of fact, it is in terms of such provision for relaxation that the applicant had been reimbursed Rs. 25,243/-. However, it is unreasonable to restrict the amount in this manner and subject the applicant to a huge financial burden of as much as Rs.96,542/- in the process. This amounted to penalising the applicant for no fault of his. Unlike the CGHS, there is no provision in the CS(MA) for reimbursement of only approved rates and it is the responsibility of the employer to fully meet the medical expenses of the beneficiary employee in terms of the order of the CAT Bangalore Bench and the judgment of the Hon'ble Karnataka High Court in W.P. 8995/2013, it is contended.

8. Learned counsel for the respondents, however, argued that the order of the CAT, Bangalore Bench and the Karnataka High Court would only be applicable to a person who had obtained treatment in a recognized hospital. However, in the instant case, the applicant took treatment for his step mother at a hospital not recognized by the Central Government under CS(MA) Rules or by the State Government. He drew attention to the observations of the Hon'ble Apex Court in the case of State of Punjab and Others Vs. Ram Lubhaya Bagga etc that ***"No State of any country can have unlimited resources to append on any of its project. That is why it only approves its projects to the extent it is feasible. The same holds good for providing medical facilities to its citizen including its employees. Provision of facilities cannot be unlimited. It has to be to the extent finance permit. If no scale or rate is fixed then it case private clinics or hospitals increase their rate to exorbitant scales, the State would be bound to reimburse the same."***

9. Attention was also drawn to the case of E.V. Kumar vs. Union of India wherein the Hon'ble High Court of Madras had held that if the treatment is taken in a Hospital authorized for the treatment under CS(MA) Rules, then only there is no restriction on reimbursement and the entire expenditure has to be reimbursed. The applicant has been

reimbursed the cost of medical treatment of his step mother adequately in the light of the aforesaid judgments, it is submitted.

10. I have carefully considered the relief sought by the applicant in terms of the relevant rules. The facts of the case are not disputed. It is admitted by the respondents that the step mother of the applicant was indeed taken to the BSS Hospital in a state of emergency and treatment therein was unavoidable in the circumstances of the case. The only issue to be decided is whether the respondents are justified in restricting the claim to Rs. 25,243/-, an amount far below the actual cost of treatment allegedly incurred by the applicant.

11. While the respondents have given details of approved CGHS rates in Annexure-A for different treatments in NABH Accredited and non NABH Hospitals, it is not clear whether the approved hospitals charge their patients accordingly. No information is provided either as to when these rates had been approved. Admittedly, the order/judgment of the CAT, Bangalore Bench and the Hon'ble High Court of Karnataka were in regard to treatment in an approved hospital. However, the fact that an employee had to approach the Tribunal for full reimbursement of costs incurred even in a recognized hospital indicates that the approved rates for treatment of various ailments or availing of hospital services are below the rates charged by a recognized hospital. As it is admitted that if the applicant had taken his step mother to an approved hospital, he would have been entitled to full reimbursement of the amount spent by him towards her treatment even if the charges were much higher than the approved rates, the respondents would likely have reimbursed more than Rs. 25,243/-, that has been worked out on the basis of approved rates.

12. As the applicant would have been entitled to full reimbursement if his dependant step mother had undergone the treatment in an approved hospital, it stands to reason that he should be entitled to reimbursement for the treatment undergone in BSS Hospital at least at rates that would have been charged by an approved hospital. The applicant cannot be penalised for unrealistic or outdated 'approved rates' if treatment is not available at such rates. The respondents cannot make a saving out of the misfortune of an employee in the garb of public interest.

13. I am accordingly of the view that the ends of justice would be met in this case, if the respondents are directed to process the claim of the applicant on the basis of rates that would have been charged by an approved hospital rather than the 'approved rates' of the CGHS. The

respondents are accordingly directed to ascertain from the nearby approved hospitals the rates that would have been charged for the surgery and other services under various heads as indicated in Annexure R2. The applicant is also permitted to obtain such information and submit to the respondents in case he wishes to facilitate this exercise. The respondents shall then reconsider the reimbursement claim of the applicant on this basis and pass a reasoned and speaking order within a period of two months from the date of receipt of copy of this order.

14. The O.A. is disposed of accordingly. There shall be no order as to costs.