

**Central Administrative Tribunal
Jaipur Bench, Jaipur**

O.A. No. 111/2016

Reserved on : 23.01.2020

Pronounced on : 29.05.2020

Hon'ble Mr. Suresh Kumar Monga, Member (J)

Smt. Sonika Sharma wife of Shri Sanjay Sharma, aged about 42 years, resident of 21, Professors Colony, Nayapura, Kota and presently working as Accountant, Kota Head Post Office, Kota Postal Division, Kota.

...Applicant.

(By Advocate: Shri C.B.Sharma)

Versus

1. Union of India, through its Secretary, Department of Posts, Ministry of Communication and Information Technology, Dak Bhawan, New Delhi-110001.
2. Chief Post Master General, Rajasthan Circle, Sardar Patel Marg, Jaipur-302001.
3. Post Master General, Rajasthan Southern Region, Ajmer-305001.
4. Senior Superintendent of Post Offices, Kota Postal Division, Kota-324001.

...Respondents.

(By Advocate: Shri Prashant Joshi)

ORDER

Pleaded case of the applicant herein is that she has been working as an Accountant in the Head Post Office at Kota. Her mother-in-law, being a family member, is wholly depended upon

(2)

her. She was admitted in M.B.S. Hospital, Kota on 28.05.2014 and discharged on 29.05.2014. However, she was still not feeling well and as she fell unconscious, therefore, she was got admitted in Kota Heart Institute and Research Centre, Kota on 30.05.2014. She remained admitted in the said hospital as an indoor patient upto 18.06.2014. A sum of Rs.3,50,198.51 was incurred towards expenditure on her treatment. After her discharge, the applicant herein submitted the medical bills with respondent No. 4 on 28.07.2014 for reimbursement. However, respondent No.4 vide his letter dated 28.10.2014 informed the applicant that since he is not the competent authority to sanction the said medical bills, therefore, the claim is being filed. Thereafter, the applicant submitted a request with respondent No.3 on 07.01.2015 and consequent thereto, the respondent No.4 vide letter dated 19.03.2015 demanded certain information/certificate from the applicant. Thereafter again the respondents issued a letter dated 30.04.2015 seeking a clarification that the applicant's mother-in-law was taken to a private hospital on 30.05.2014, while she approached the Government hospital on 28.05.2014 at 22:09 for treatment and emergency was not diagnosed by the doctors of said Government hospital. The applicant vide her letter dated 05.05.2015 submitted a detailed explanation to aforesaid letter. However, her claim for reimbursement of medical bills was declined by the respondents vide their letter dated 25.05.2015 (Annexure A/2). The applicant still filed a representation before

(3)

respondent No.2 requesting therein for review of the said order and the same was also declined vide order dated 14.08.2015. Aggrieved by the said orders, the applicant has invoked the jurisdiction of this Tribunal under Section 19 of the Administrative Tribunals Act, 1985 for quashing those orders and also for issuance of a direction to respondents to release the payment of Rs.3,50,198.51 with interest @ 12% per annum.

2. The respondents while filing their joint reply have joined the defence and opposed the applicant's claim with the assertions that the applicant's mother-in-law was got admitted in a private hospital without there being any reference by any authorized medical attendant. The said hospital is not a recognised hospital under the Central Government Health Scheme. The medical bills of the applicant's mother-in-law were returned by respondent No.4 as he is not the competent authority to sanction the claim where the treatment is taken in a private hospital. It has further been pleaded that the applicant's appeal to Post Master General, Rajasthan Southern Region, Ajmer was also rejected vide order dated 25.05.2015 and the decision in this regard was duly communicated to her by respondent No.4. The applicant again preferred a review representation before the Chief Post Master General, Rajasthan Circle, Jaipur and the same was also rejected by citing the reasons that the treatment was taken from a private hospital without obtaining any prior approval from any authorised

(4)

medical attendant and no emergency was found in getting the said treatment. The applicant failed to avail the medical facilities for her mother-in-law available in the District Level Government hospital, i.e. M.B.S. Hospital, Kota, which is situated at a distance of ¼ Kms from her residence. With all these assertions, the respondents have prayed for dismissal of the present Original Application.

3. Heard learned counsels for the parties.

4. Shri C.B.Sharma, learned counsel for the applicant submitted that the applicant's mother-in-law was first taken to a Government hospital, i.e. M.B.S Hospital at Kota on 28.05.2014 where she was kept in emergency ward upto 29.05.2014 and she was discharged on the said date. Since the applicant's mother-in-law fell unconscious, therefore, she was immediately taken to Kota Heart Institute and Research Centre, Kota where she remained admitted upto 18.06.2014. Learned counsel while referring to a certificate dated 26.08.2014 (Annexure A/5) issued by the Kota Heart Institute and Research Centre, Kota submitted that the applicant's mother-in-law, who suffered from Dengue Shock Syndrome and DM type-II, was admitted in the said hospital in an emergent condition on 30.05.2014 and, therefore, in view of the law laid down by the Hon'ble Supreme Court in the case of **Shiva Kant Jha vs. Union of India** 2018 (2) S.C.T. 529,

(5)

the respondents cannot decline the reimbursement of medical bills of the applicant's mother-in-law.

5. Per contra, Shri Prashant Joshi, learned counsel for the respondents submitted that the applicant has failed to produce on record any certificate depicting therein her mother-in-law's admission in the Government hospital on 28.05.2014 and the treatment has been availed in the private hospital in a pre-planned manner. Learned counsel further submitted that there was no emergency in the case of applicant's mother-in-law and the medical bills towards expenditure in a private hospital cannot be reimbursed as there was no reference by the authorised medical attendant. Learned counsel further submitted that the applicant herself has been working as an Accountant and she knew about the rules and instructions dealing with the subject of reimbursement of medical bills in case the treatment is taken from a private hospital. Learned counsel thus submitted that the respondents are within their right to decline the reimbursement of medical bills for the treatment taken by the applicant's mother-in-law in a private hospital.

6. Considered the rival contentions of learned counsels for the parties and perused the record.

(6)

7. A perusal of the prescription slip issued by the MBS Hospital and Government Medical College, Kota (Annexure A/16) reveals that the applicant's mother-in-law was taken to said Government hospital at 10.09 PM on 28.05.2014. In the said prescription slip in the column of diagnoses, it was noted 'pain abdomen' and while prescribing certain medicines, the doctor also advised her x-ray chest pa view. As per the information given by the applicant to respondents, her mother-in-law was taken to emergency in the MBS Government Hospital, Kota, where, after giving some medication the doctor advised the x-ray chest and discharged her on 29.05.2014. The doctor on duty, in his wisdom, could not diagnose the ailment from which the applicant's mother-in-law was suffering. On 30.05.2014 when the applicant's mother-in-law fell unconscious, she was taken to Kota Heart Institute and Research Centre, Kota in an emergent condition. In the said hospital, she was diagnosed as a patient of Dengue Shock Syndrome and DM type-II. She was admitted in the said hospital on 30.05.2014 and discharged on 18.06.2014. A certificate dated 26.08.2014 (Annexure A/5) issued by Dr. Rakesh Jindal reveals that the applicant's mother-in-law was admitted in Kota Heart Institute and Research Centre, Kota in emergency on 30.05.2014 in a serious condition as she was diagnosed as a patient of Dengue Shock Syndrome and DM type-II. It has further been certified that the condition of the applicant's mother-in-law was very critical. The authorities of the

(7)

Kota Heart Institute and Research Centre, Kota issued medical bills amounting to Rs.3,50,198.51 towards expenditure incurred on the treatment of applicant's mother-in-law during her hospitalization between 30.05.2014 to 18.06.2014. The applicant submitted the said medical bills with the certificate dated 26.08.2014 for its reimbursement. The said bills, however, were filed by respondent No.4 vide his communication dated 28.10.2014 (Annexure A/6) stating therein that he is not the competent authority for reimbursement of those bills. The applicant submitted a representation before the Post Master General, Rajasthan Southern Region, Ajmer on 28.10.2014 narrating therein all the facts and circumstances under which her mother-in-law was taken to Kota Heart Institute and Research Centre, Kota. On the said representation, the applicant was asked to submit certain information/ certificate. The applicant responded the said communication immediately vide her letter dated 30.03.2015 (Annexure A/10) and apprised the respondents that her mother-in-law, who was taken to MBS hospital in emergency, was not admitted by the doctor on duty and she was discharged after giving some medication and advice of x-rays chest. The respondents also wrote a letter dated 20.03.2015 to In-charge, Postal Dispensary, Kota to confirm the fact that the applicant's mother-in-law was taken to a private hospital in an emergent condition. It appears that the respondent authorities have dealt with the applicant's case for reimbursement of medical

(8)

bills with an insensitive approach as at no point of time her mother-in-law was taken to Postal Dispensary, Kota.

8. Admittedly, the applicant's mother-in-law was taken to MBS Hospital and Government Medical College, Kota at 10.09 PM on 28.04.2014 where she was treated in emergency ward only. Since the duty doctor could not diagnose the case properly, therefore, she was taken to Kota Heart Institute and Research Centre, Kota on 30.5.2014 when she fell unconscious. In such like situation, how the In-charge, Postal Dispensary, Kota could confirm about the emergent condition of the applicant's mother-in-law, is beyond the perception of even an ordinary prudent man. While issuing the order dated 14.08.2015 (Annexure A/1), the respondents have totally ignored the certificate dated 26.08.2015 (Annexure A/5) issued by Dr. Rakesh Jindal certifying therein that the applicant's mother-in-law was admitted in Kota Heart Institute and Research Centre, Kota in an emergent condition on 30.05.2014 as she was suffering from Dengue Shock Syndrome and DM type-II. The condition of the patient was very critical. In such like situation, the observations given by respondent No.2 in the order dated 14.08.2015 that he did not find any emergency, are without any basis.

9. The Hon'ble Supreme Court in Shiva Kant Jha (supra) has held that the ultimate decision as to how a patient should be

(9)

treated vests only with the Doctor, who is well-versed and expert both on academic qualification and experience gained. Very little scope is left to the patient or his relative to decide as to the manner in which the ailment should be treated. It has further been held that before any medical claim is honoured, the authorities are bound to ensure as to whether the claimant had actually taken treatment and the factum of treatment is supported by records duly certified by Doctors/Hospitals concerned and once it is established, the claim cannot be denied on technical grounds.

10. In the case in hand, there is no doubt with regard to the fact that the applicant's mother-in-law has taken the treatment from Kota Heart Institute and Research Centre, Kota and she remained admitted in the said hospital between 30.05.2014 to 18.06.2014. The expenditure of Rs.30,50,198.51 incurred towards said hospitalization has also not been disputed by the respondents. Since the treatment from Kota Heart Institute and Research Centre, Kota is not in dispute and in terms of the certificate dated 26.08.2014 (Annexure A/5), the said treatment was taken in an emergent condition, therefore, in view of the law laid down by the Hon'ble Supreme Court in Shiva Kant Jha (supra), I am of the opinion that the reimbursement of medical bills towards expenditure incurred on the treatment of applicant's mother-in-law cannot be declined and the orders dated 14.08.2015 and

(10)

25.05.2015 (Annexures A/1 and A/2) issued by the respondents are liable to be quashed.

11. Accordingly, the Original Application is allowed. The orders dated 14.08.2015 and 25.05.2015 (Annexures A/1 and A/2) are hereby quashed and set aside. The respondents are directed to consider the applicant's claim for reimbursement of medical bills of her mother-in-law in accordance with law. A further direction is issued to complete the whole exercise within a period of two months from the date of receipt of a certified copy of this order and reimbursement of the amount due be made with interest at the rate of 6% per annum.

12. However, there shall be no order as to costs.

(Suresh Kumar Monga)
Member (J)

/kdr/