

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI

OA NO. 1886/2001

This the 12<sup>th</sup> day of March, 2003

HON'BLE SH. KULDIP SINGH, MEMBER (J)

Sh. H.C.Singh (Ex. Scientist, CMRI, Dhanbad)  
S/o Late Sh. Ram Lakhan Singh  
R/o Flat No.902, Block No. 16,  
East End Apartments, A-5, Chilla,  
Delhi-110096.

(By Advocate: Sh. L.K.Singh)

Versus

1. Council of Scientific & Industrial Research  
Through its Joint Secretary (Administration),  
Rafi Marg, New Delhi-110001.
2. Central Mining Research Institute,  
Through its Director,  
Barwa Road, Dhanbad-826001,  
Jharkhand.

(By Advocate: Sh. Kapil Sharma)

ORDER

By Sh. Kuldip Singh, Member (J)

Applicant is aggrieved of inaction on the part of the respondents to consider him to be entitled to avail the benefit of the CSIR notification dated 12.12.95 for extension of medical facilities to retired CSIR employees. He is further aggrieved on the part of the respondents to reimburse the balance amount of Rs.1,47,097/- out of the total amount of Rs.2,86,087/- spent by him towards his medical treatment.

2. Applicant was an employee of CSIR and had retired on 31.1.94 on superannuation. Applicant is stated to have suffered a massive heart attack on 29.10.97 at Dhanbad where he was staying with his relatives. He was rushed to Central Hospital, Dhanbad for his medical treatment, which is a recognized hospital by CMRI/CSIR for medical treatment of its employees. Applicant is stated to have remained in Coma in

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the Central Hospital, Dhanbad till the morning of 5.11.97 when he was taken to B.M.Birla Heart Research Centre, Calcutta for further treatment. It is further stated that the applicant was referred to B.M.Birla Heart Research Centre on the basis of the recommendations made by Resp. No.2 as per the letter dated 4.11.97. Applicant further claims that on 4.11.97 when some of the employees of CMRI came to visit him they inform his sons that as per notification of CSIR dated 12.12.95 the medical benefits have been extended to even retired employees and retired employees were being treated at par with employees of CSIR.

3. In view of the same, the applicant's sons approached the CMRI Administration for getting prepared the medical card on 4.11.97 and for obtaining an Introductory/Authority letter addressed to the referred Hospital. Accordingly, the medical card was issued and request letter was also issued vide Annexure A-4 and A-3. Applicant have been proceeded to Calcutta and was admitted to B.M.Birla Heart Research Centre, Calcutta on 5.11.97 where he underwent Coronary Angiography on 10.11.97 and Triple Artery bypass surgery on 17.11.97 and remained in the said hospital till 29.11.97. On his discharge from the hospital on 29.11.97 he was advised to stay in Calcutta for at least 15 days thereafter for post discharge checkups. He was declared fit to travel on 14.12.97 and was further advised for checkup after six months. Thereafter he left Calcutta to New Delhi alongwith his family. It is further submitted that the Senior Consultant Cardiologist attended his case and advised that applicant could stay in Calcutta and New Delhi where suitable medical facilities were available and he also added a note of caution that it would be unsafe for the applicant to travel unattended and that an



attendant/escort was necessary to attend him to the place of treatment. While at Delhi, the applicant took at least for 2 months confined to bed and thereafter it took almost six months to recover. However, he was going for routine checkup to Escorts Heart Institute and Research Centre, New Delhi as outdoor patient. Thereafter on 28.4.98 he went to Calcutta for his first post CABG operative checkup.

4. It is further submitted that the applicant getting his medical card prepared on 4.11.97 he has been regularly paying the renewal fee for his medical card every year. He had further made a request for antedating his card at least w.e.f. 29.10.97 as he could not get prepared the medical card earlier as he had no knowledge of the notification dated 12.12.95 as no intimation in this regard has been sent by Resp. No.2 to the applicant. Applicant further submits that the notification dated 12.12.95 has a provision that in case of expiry of the card it could be renewed within a period of one month. Applicant claims that he could also be given one months grace time prior to 4.11.97 as if he has been issued medical card on 4.10.97 itself. He further claims that he is entitled to the scheme of 12.12.95 and privilege of one months grace period can be extended to him also since no fault can be attributable to him for the delay getting his medical card prepared earlier than 4.11.97.

5. Applicant further submits that on 24.1.98 he submitted a claim of Rs.12,579/- in respect of his medical treatment undergone at Central Hospital Dhanbad and a claim of Rs.2,57,226/- in respect of the medical treatment undergone at B.M.Birla Heart Research Centre, Calcutta. Besides that he has also submitted his claim for travelling expenses with one

attendant from Dhanbad to Calcutta on 5.11.97 and from Calcutta to New Delhi on 15.12.97 amounting to Rs.6,417/- only. Applicant then also submitted another bill of Rs.5,251.65 for post CABG operation checkups at Escorts Heart Institute and Research Centre, New Delhi and further two claims dated 16.7.98 for post CABG checkups at B.M.Birla Heart Research Centre, Calcutta for a sum of Rs.1,898/- and Rs1,335/- respectively. He further submits travelling expenses for travelling from Dhanbad to Calcutta on 12.6.98 and Calcutta to Dhanbad on 16.6.98 with one attendant for a sum of Rs.1,380/-. However, the respondents had agreed to make some provisional payment and accordingly had released a sum of Rs.1,36,936/- by cheque out of the total amount of Rs.2,57,226/-. It is further alleged that respondents instead of clearing the bills had referred the case to Resp. No.1 who is stated to have initiated enquiries. However, respondents submit that he had submitted alongwith the bills the printed schedule of the charges being charged by B.M.Birla Heart Research Centre. Applicant further claims that at present the department is withholding a sum of Rs.1,20,290.25 towards medical expenses incurred by the applicant. It is further stated that the department has also released a sum of Rs.2054/- provisionally by cheque for a claim of Rs.12,579/- for treatment at Central Hospital, Dhanbad. Thus, the respondents have failed to clear the amount and outstanding amount of Rs.1,47,097/- towards the total claim of medical amount.



6. Applicant further alleges that despite the fact that the claims were raised, Resp. No.1 and 2 are interchanging the letters and after raising the queries they are just sitting over the matter for the reasons best known to them. So a legal notice was issued and ultimately this OA has been filed.

7. Respondents are contesting the OA. It is admitted that the applicant had suffered a massive heart attack and was admitted to Central Hospital, Dhanbad. It is also admitted that applicant is a retired employee of Resp. No.2. It is further submitted that CSIR vide circular dated 12.12.95 has extended the medical facilities to CSIR pensioners residing outside Delhi at par with their counterparts residing in Delhi and the pensioners interested in availing the medical facilities were required to get themselves registered with the respective dispensaries after payment of annual contributions for making a medical card for treatment of pensioners and their dependant family members.

8. It is further submitted that the applicant as well as all the retired pensioners of CMRI had been made aware of the aforesaid CSIR circular by notifying the same at CMRI Notice Board but the applicant failed to get himself registered with the respective dispensary and make payment of annual contributions as required under the circular dated 12.12.95 in order to avail the medical facilities thereunder. Applicant did not apply for medical card and it is only on 4.11.97 when applicant got issued the medical card and paid contributions for the same as provided under the circular after suffering a massive heart attack on 29.10.97.

9. It is further submitted that the letter dated 4.11.97 issued by Resp. No.2 cannot be treated as a referral letter as required under the circular. It is further stated that the applicant was residing at CMRI premises so he has full knowledge of the circular dated 12.12.95.

10. As regards antedating of medical card w.e.f. 29.10.97, it is stated that office memorandum dated 26.3.91 relates to renewal of medical card and hence the date of issuance of medical card cannot be antedated. Moreover, it is stated that the benefit of notification dated 12.12.95 has been given to the applicant to the extent admissible under the said circular. It is further submitted that the applicant had been reimbursed in accordance with the instructions as contained in OM dated 18.9.96 and the respondents have no concern with the charges being charged by B.M.Birla Heart Research Centre, Calcutta. It is further submitted that the medical facilities provides under the circular dated 12.12.95 are specifically for indoor patient treatment and do not include outdoor patient treatment within its ambit nor it provides for reimbursement of travelling expenses.

11. I have heard the learned counsel for the parties and gone through the record.

12. As regards the fact that the applicant is a retired employee of Respondent No.2 and that is not in dispute. The only question is as to how much of the amount applicant is entitled to be reimbursed. As per the bills submitted by the applicant the same can be divided into three categories i.e. for the period from 29.10.1997 to 04.11.1997 when the applicant was admitted to Central Hospital, Dhanbad. The



second is the period of 05.11.1997 to 29.11.1997 when the applicant remained as an indoor patient at B.M. Birla Heart Research Centre, Calcutta and the third period is post operative expenses incurred by the applicant as an outdoor patient at Escorts Heart Institute, New Delhi as well as at B.M. Birla Heart Research Centre at Calcutta and in addition to these three spells the applicant has also claimed travelling expenses when he travelled from Dhanbad to Calcutta and to New Delhi and again from Calcutta to Delhi and again from Dhanbad to Calcutta and back to Dhanbad on 16.06.98.

13. As regards the enrolment of the applicant under the scheme of 12.12.95 is concerned, admittedly the applicant got himself enrolled on 4.11.97 prior to that he was not enrolled though the applicant has claimed the benefit of grace period of one month but the said benefit of grace period of one month is applicable for renewal of the old card but once a card is issued for the first time on 4.11.97 applicant cannot ask for ante-dating of the said card by one year grace period which is admissible for renewal of the old card. Thus the applicant has to be treated as if admitted to the scheme under 12.12.95 only w.e.f. 04.11.97. The expenses incurred by him prior to 4.11.97 cannot be reimbursed to him under the scheme of 12.12.95. Applicant himself has annexed the scheme of 12.12.95 alongwith his OA. According to the scheme in case the Medical Officer, Incharge of the Medical Dispensary refers the pensioner to Govt. recognised Hospital for consultation of specialised treatment then the medical reimbursement in respect of indoor treatment to a Govt. Hospital is admissible provided the patient has been referred to a specialised treatment by a Medical Incharge CSIR Dispensary and this reimbursement is to be regulated under CSIR Medical Rules for

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taking the indoor treatment. The case of the applicant is that he had been referred to B.M. Birla Heart Care Centre vide letter 4.11.97 as well as Annexure A-2 which is discharge slip from Central Hospital, Dhanbad which also mentions referred to B.M. Birla Heart Research Centre, Calcutta for further treatment. Though the counsel for respondents has denied that letter dated 4.11.97 is a referral letter, rather the respondents submitted that letter dated 4.11.97 issued by respondent No.2 simply shows the fact that applicant is a retired employee of CMRI and as such this letter cannot be recorded as a referral letter as recorded on 17.11.97.

14. But in my view this plea of the respondents has no merits because discharge slip itself shows that the applicant has been referred to B.M. Birla Heart Care Centre, Calcutta meaning thereby the treatment at Central Hospital Dhanbad of CMRI was not enough looking into the condition of the applicant as on 4.11.97 that is why the Hospital has referred him to the B.M. Birla Heart Care Centre, Calcutta. On this aspect, counsel for applicant has also referred to a judgement reported in 2001 Delhi Law Times 59 in case of M.G. Mahendru Vs. UOI wherein it has been observed as under :-

"Constitution of India, 1950 - Article 226 - Reimbursement of Medical Expenses : Government Hospital Recommended Case of Petitioner for Specialised Treatment by Speciality Hospital, which is on Approved List of CGHS : Bench of Full Medical Reimbursement cannot be Denied to Retired Government Servant, if he cannot Actually Avail of Same."

15. The Court further observed as under:

"When the respondents themselves have recommended the case of the petitioner for getting treatment at a speciality hospital to

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deny the benefit of giving full reimbursement would be contrary to the grant of medical facilities to a retired Government servant, if he cannot actually avail of the same. If the Government Hospital did not have the facility for giving treatment like the one which was required to be given to the petitioner, then it was an obligation on the part of the respondents to have reimbursed the total amount paid to the said hospital. Following the ratio laid down in the State of Punjab & Ors. vs. Mohinder Singh Chawla's case (supra), I direct the respondents to reimburse the amount of Rs.80,620/- to the petitioner within a period of four weeks."

16. As against this, learned counsel for respondents submitted that the applicant has been reimbursed as per package provided under the CCS (Medical) Rules, so no further reimbursement is required to be ordered.

17. I have considered the rival contentions on this aspect.

18. Respondents are denying the liability to reimburse the applicant's bill merely on the ground that they have not referred the applicant to B.M.Birla Heart Care Centre Calcutta and secondly they have paid in accordance with the package as per CCS Medical Rules. But on going through the judgment cited by the counsel for applicant I may mention that since the applicant has been referred by the Hospital of the respondents themselves to B.M.Birla Heart Institute Calcutta, meaning thereby, that the facilities available at the Central Hospital, Dhanbad were not sufficient to save the life of the applicant that is why he has been referred to B.N.Birla Heart Institute Calcutta. Thus, the applicant as per the law laid down in the case cited by the counsel for the applicant in Mahendru's case (supra) applicant is entitled to the full reimbursement of the expenses incurred by him for his treatment at B.N.Birla Heart Institute Calcutta.

*[Signature]*



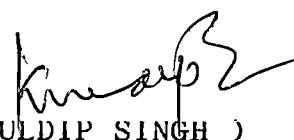
19. As regards the travelling expenses incurred by the applicant on post operative checkup is concerned, it is the case of the applicant that he has incurred those expenses as an OPD patient. To that also I find that the applicant is entitled because the post operative care could not be provided by the dispensary run by the respondents as the operation was performed by specialised Institute at Calcutta and it is the Calcutta Doctor who had advised the patient to have post operative checkups either at Escorts Heart Institute, New Delhi or at Calcutta itself. The dispensaries run by the respondents could not provide even the post operative care to the applicant. Thus, I find that the applicant is also entitled to the amount spent by him on his post operative checkups at Escorts Heart Institute, New Delhi as well as at B.N.Birla Heart Institute, Calcutta.

20. As far travelling expenses for medical attendance journeys are concerned, the same has been explained in Rule 4 (1) note 2 of Medical Attendance Rules which are also applicable to applicant as per scheme of 12.12.95 which is reproduced herein for ready reference:

"6. TA for attendant/escort. An attendant/escort will be entitled to travelling allowance both ways at the rates admissible under these orders to a member of family of the Government servant concerned, provided it is certified in writing by the medical authorities mentioned in these orders that it is unsafe for the patient to travel unattended and that an attendant/escort is necessary to accompany him/her to the place of treatment. Similary travellinhg allowane will also be admissible if it becomes necessary for an attendant/escort to travel again to fetch the patient on produciton of the necessary certificate mentioned above".

21. A perusal of the above rule clearly indicates that the applicant is entitled for travelling allowance for medical attendant. Since in this case also the doctors had advised the applicant to travel along with an attendant.

22. In the result, the OA is partly allowed. I hold that the applicant is entitled to full reimbursement of expenses incurred by him after 4.11.97 at B.N.Birla Heart Institute Calcutta and for post operative checkups at Escorts Heart Institute, New Delhi and B.N.Birla Heart Institute Calcutta and also the travelling expenses incurred by him and for his attendant. But the applicant shall not be allowed the reimbursement of expenses incurred prior to 4.11.97.

  
( KULDIP SINGH )  
Member (J)

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