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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH NEW DELHI

O.A. NO. 2350/2001

NEW DELHI THIS 18TH DAY OF MARCH 2002

Hon'ble Shri Govindan S. Tampi, Member (A)

R S Oberoi S/o Shri Arjan Singh
Retired Shop Superintendent,
DE-101, Tagore Garden,
New Delhi

.....Applicant
(By Shri S.N. Anand, Advocate)

VERSUS

1. Union of India through
Secretary, Min. of Railways,
Railway Bhawan, New Delhi
2. The General Manager,
Northern Railway, HQrs Offie, Baroda House
New Delhi.
3. Chief Medical Director,
Northern Railway, , HQrs. Office,
Baroda House, New Delhi

.....Respondents
(By Shri Rajinder Khattar, Advocate)

O R D E R (ORAL)

Failure of the respondents to fully reimburse the expenses incurred towards the emergent heart surgery of the applicant's wife is under challenge in this OA.

2. Heard S/Sh. S N Anand and Rajinder Khattar, learned counsel for the applicant and the respondents respectively .

3. The applicant , who retired as a Shop Supdt, on superannuation on 30.12.88, and his wife are members of Retired Employees Liberation Health Scheme (RELHS), holding identity card No. 004515. The applicant's wife , a chronic diabetic, was rushed to National Heart Institute, New Delhi on 2.7.96, due to acute heart problem , where from she was discharged on 4.7.96. She was thereafter taken to Indraprashtha Appollo Hospital, a Govt. Approved Hospital

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on the same day, where, after the test she underwent coronary artery bypass grafting (CABG) on 9.7.96. She was discharged on 18.7.96. Applicant filed the bill and representation for re-imbursement of charges amounting to Rs. 1,43,365/- for the above. Queries raised thereon were duly answered. The case after recommendation by the Medical Director, Central Hospital, Northern Railway and GM Northern Railway ^{was} forwarded it to Railway Board, who by their letter dated 3.8.99 declined to grant the same the reason ^{shown} being that the treatment was taken in a "private hospital". This was surprising as the Central Hospital, Northern Rly did not have the facility for the above surgery and Apollo Hospital was approved for it. He was asked to appear before the Chief Medical Director, Northern Railway which he did but the CMD, declined to grant the benefit on 13.3.2001 stating that there was no emergency, which was reiterated by the impugned letter of 9.5.2001. The above action was violative of his constitutional rights and against Govt's own instructions. The applicant with his meagre income could not afford the above and in similar cases, courts have intervened on behalf of the applicant as has been done in OA No. 135/90, by the Mumbai Bench of the Tribunal.

4. According to the respondents, medical expenses incurred by retired employees, under RELHS, was subject to a ceiling of Rs.200000/- (with Rs. 100000/- each for the employee and the spouse), subject to their being referred by CMD & a consultant. This was to be done prior to the treatment and as it has not been done, ~~prior to the treatment and as it has not been done~~, prior instructions were not taken and no threatening emergency was present the

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claim had to be rejected. In a similar case (OA1710/99) reimbursement was refused. The applicant cannot claim the above as a matter of right is what the respondents plead.

5. Both Shri Anand and Shri Rajinder Khattar reiterated their respective pleas.

6. Having considered the rival contention and the fact brought on record, I am convinced that the applicant has a case. It is clear from the medical certificate given by the Consultant Cardiologist (Dr. Dhiraj Bhatia) on 5.7.96, that CABG had become necessary to be performed on the patient (Smt. Oberoi) which was done on 9.7.96. In a situation like this, the applicant could not have met the Railway Doctors and obtained their prior permission. The situation was an emergency and prior permission had to be waived, in the interest of the life of the patient. This is a case clearly covered by the Rly Bd's own instructions of 18.9.95, but for the prior permission and reference. This is a case where the permission is to be deemed as having been taken, as decided in the OA filed by Kamal Sabharwal Vs UOI & Other (OA 815/PB/95) by Punjab Bench and in OA No. 301/94 filed by ^{Shri Anand} ~~Shri Anand~~ Barkare Vs Secretary of Defence. Situation being similar I adopt the above for deciding the OA, more so as the respondents have not stated that CABG is being performed in Central Hospital, Northern Railway and as Appollo Hospital is a approved Hospital.

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7. In the result the OA succeeds and is accordingly allowed. Respondents are directed to reimburse the medical expenses, incurred towards CABG performed on the applicant's wife, to the tune of Rs. one lakh only, as provided for in Rly Bd's letter No. E6/11/6-2/21 dated 6.7.95. No costs,

(Govindar S. Tampi)
Member (A)

Patwal/