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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.2819/2001

New Delhi this the 4th day of June, 2002.

HON'BLE MR. SHANKER RAJU, MEMBER (JUDICIAL)

P.T. Sunami,
R/o H.No.591-E,
Modale Town,
Panipat.

-Applicant

(By Advocate Shri Yogesh Sharma)

-Versus-

1. Union of India through
the General Manager,
Northern Railway,
Baroda House, New Delhi.
2. The Divisional Railway Manager,
Northern Railway, Delhi Division,
Near New Delhi Rly Station,
New Delhi.
3. The Chief Medical Supdt.,
Northern Railway Divil. Hospital Delhi,
Near Old Delhi Jn. Railway Station,
New Delhi.

-Respondents

(By Advocate Shri Rajeev Bansal)

O R D E R (ORAL)

By Mr. Shanker Raju, Member (J):

Applicant impugns respondents' order dated 16.6.2001, rejecting his claim for medical re-imbursement. Applicant in this OA claims Rs.1,46,086/- with 18% interest as medical re-imbursement.

2. Applicant retired as Junior Ticket Inspector on 26.5.99. On 30.4.2000 his wife suffered heavy pain in lower abdomen and approached Railway Dispensary at Panipat. As no lady Doctor was available in an emergency applicant has approached local nursing home, who have referred her to Ganga Ram Hospital in the intervening night of 1.5.2000. She was further referred to R.M.L. Hospital for want of bed, from where as the requisite tests were not available she was advised to approach Batra Hospital. To save the

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life of his wife applicant approached Batra Hospital and got her admitted. Applicant informed about the sickness of his wife to the Chief Medical Superintendent at Northern Railway Hospital on 1.5.2001. Ultimately, cancer was detected in urinary bladder. His wife was discharged and shifted to Central Railway Hospital. As she was serious Doctors at Railway Hospital had referred her to Rajiv Gandhi Research and Cancer Hospital, where she was administered treatment for four days and due to lack of facilities she was again referred to Batra Hospital on 18.5.2000. From Batra Hospital applicant's wife was referred to Rajiv Gandhi Cancer Hospital where she remained under treatment and died on 25.9.2000. Applicant made a representation for post facto sanction for medical re-imburement and staked his claim but the same was not considered for delay. He made a request to the DRM, who is the competent authority, and by an order dated 28.3.2001 on his representation delay was condoned. The request for medical re-imburement was rejected on 16.6.2001, giving rise to the present OA.

3. Learned counsel for the applicant stated that his claim has been rejected on the ground of delay and also his failure to visit the authorized Medical Officer. In this regard a letter dated 13.9.2000, annexed with the rejoinder is highlighted to indicate that applicant's wife who was referred by the Railway Hospital on 12.5.2000 as also subsequently by the Medical Director, Central Hospital, Basant Lane, New Delhi. In this view of the matter it is stated that the delay has already been condoned in presenting his claim for re-imburement and

placed reliance on a decision of the Delhi High Court in S.P. Kapur v. Union of India, 2000 (1) ATJ 654, wherein the following observations have been made:

"We have considered the arguments of the counsel for the parties and also perused the record produced. It is an admitted fact on record that the petitioner suffered a massive heart attack on 3.1.1994. He remained in the Kolem Hospital till 6.1.94. That the Kolem Hospital is situated in the same locality where the petitioner is residing. Petitioner needed immediate medical help as he suffered massive heart attack. There is no CGHS hospital nearby in such a situation of emergency, if the petitioner was rushed to a nearby hospital for medical help in order to save his life, we see no reason why his claim should not be reimbursed. Life is precious and in order to save the same if in that condition petitioner was rushed to a nearby hospital, even it was not recognised, to our mind, it could not have been a ground to reject his claim."

It is contended that as the wife of the applicant was seriously sick, to save her life he has approached the hospital where all the facilities were available and the matter has been reported to the Railway Doctors and the case has been referred therefrom. Further placing reliance on the decision of the Gauhati High Court in Smt. Gouri Sengupta v. State of Assam, 2000 (1) ATJ 582 it is contended that denial of re-imburement of medical expenses on the ground that treatment in a private nursing home not recognized by the Government is not justified.

4. On the other hand, respondents' counsel in his reply stated that nothing on record has been brought to show that the applicant along with his wife approached the Authorized Medical Officer on 30.4.2000 and 1.5.2000 and also no evidence to show that the applicant visited Central Railway Hospital and was further referred to Rajiv Gandhi Cancer Hospital. It is also stated that the case of the

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applicant was considered, taking all the factors into account and thereafter rejected, which cannot be found fault with.

5. After carefully considering the rival contentions of the parties, I am of the considered view that the issue regarding delay in presenting the claim is no more in disputed as the DRM, who is the competent authority, has already condoned the delay in submitting the medical re-imburement bill by the applicant on 28.3.2001.

6. In so far as the claim of the applicant is concerned and its rejection by the respondents for want of referral by the Railway Hospital is concerned and failure of the applicant to produce any proof, I find from the rejoinder a letter dated 13.9.2000, where the applicant's wife has been referred to the Rajiv Gandhi Cancer Hospital by the Railway Doctors on two occasions and in view of the decision of the High Court of Delhi (supra) where in an emergent situation the claim has been allowed, despite the fact that the hospital was not recognized. As the applicant has approached the Railway Dispensary at Panipat but due to want of Lady Doctor his wife was referred to Ganga Ram Hospital and thereafter to Batra Hospital and Rajiv Gandhi Cancer Hospital and back to Batra Hospital, the contention of the respondents that he has not given any evidence to show that he has approached the Railway medical authorities, cannot be countenanced and is bellied in view of letter dated 13.9.2000. Apart from it, as the wife of the applicant was suffering from cancer and in an emergent situation she was to be brought to the Batra Hospital where the requisite treatment was available and was not available

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elsewhere, even in Rajiv Gandhi Cancer Hospital, the claim of the applicant cannot be rejected merely because the hospital is not recognized by the Government, as held by the High Court of Delhi in S.P. Kapur's case (supra).

7. In this view of the matter and having regard to the reasons recorded above, the impugned order dated 16.6.2001 (Annexure A/1) is not sustainable and is accordingly set aside. The respondents are directed to re-consider the claim of applicant for medical re-imburement, amounting to Rs.1,46,086/-, without insisting upon the delay and to take a final decision on re-imbursing the due amount to the applicant alongwith simple interest at the rate of 10%, within a period of three months, by passing a detailed and speaking order. No costs.

S. Raju

(Shanker Raju)
Member (J)

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