

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA No. 1710/1999

New Delhi, this the ^{11th day of May, 2001}

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

Sh. Bhup Singh Kain
S/o Shri Bhawar Singh Kain
Chief Draftsman
Signalling & Telecommunication (Construction)
Northern Railway,
Baroda House,
New Delhi.

... Applicant
(By Advocate: Sh. B.S. Mainee)

V E R S U S

Union of India : Through

1. The General Manager
Northern Railway,
Baroda House, New Delhi.

... Respondents
(By Advocate: Shri P.M. Ahlawat)

ORDER

By Shri Kuldip Singh, Member (J):

The applicant in this case is aggrieved of the order dated 8.7.99 passed by the General Manager, Northern Railway whereby he has been denied reimbursement of medical expenses which he has spent on the illness of his daughter. ~

2. The case of the applicant is that he is working as Chief Draftsman in the Signalling & Telecommunication Branch (Construction) Northern Railway. His unmarried daughter Ms. Seema who was suffering from fever had suddenly become serious and her condition passed through critical stage on 12.11.1998 while the applicant was not at home but his son immediately shifted her to Sir Ganga Ram Hospital which is the nearest hospital from the

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residence of the applicant with a view to save her life as she was in a critical condition. She remained admitted there for a pretty long time.

3. The plea of the respondents is that the impugned order was passed by the Chief Medical Director on the application of the applicant and not on any other plea which was communicated to the applicant. Besides that it is pleaded that the applicant had gone to the Sir Ganga Ram Hospital without being recommended by the Railway Dispensary which was nearest to the residence of the applicant even than that of Central Railway Hospital. Besides that the applicant could have taken the patient to Central Railway Hospital at New Delhi which was also not far away from Sir Ganga Ram Hospital. Thus the applicant had taken treatment of her daughter from Sir Ganga Ram Hospital of his own without being referred by the railway authorities medical attendant so there is no justification for getting treatment for his daughter without being recommended by the authorised medical attendant, hence this claim cannot be allowed.

4. I have heard the learned counsel for the parties and gone through the records of the case.

5. The learned counsel for the applicant has referred to a judgment reported in 1996 (2) SCC (12) 336 Surjit Singh Vs. State of Punjab wherein it was observed by the Hon'ble Supreme Court that the

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right to life as enshrined in the chapter of Fundamental Rights in the Constitution of India also includes to preserve one own life and in an emergent condition a patient can have treatment from the private hospital if the authorised medical services were not available.

6. On the contrary the respondents referred to the latest circulars dated 17.2.77 by the department wherein it was stated that when a railway employee gets a medical treatment without being referred by the authorised medical attendant then re-imbursement is not admissible. But in the same circular it is mentioned that if treatment is taken in extreme emergency, railway employee may not be deprived of reimbursement as claimed. There was another circular which is dated 18.3.98 wherein it was mentioned that the Ministry of Railways desired that it should be ensured that treatment in private hospitals by railwaymen is sponsored reimbursed only in emergent cases and for the shortest and unavoidable spell of time so that the annual expenditure on this account is reduced or minimised and these instructions have been repeated time and again.

7. Now examining the case of the applicant in accordance with the instructions which are applicable on the subject in question I find that it is the case of the applicant itself that his daughter was suffering from fever for the last 45 days before

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she was admitted to the Sir Ganga Ram Hospital. The medical certificates placed by the doctor though show that she was brought to the hospital in a serious condition but it does not speak that it was in extreme emergent condition. There is lot of difference between the extreme emergent condition and serious condition. It is a common knowledge and a geographical fact that the Central Railway Hospital is only at a distance of about 3 to 5 kilometres from Sir Ganga Ram Hospital where the applicant could have easily taken his daughter to the Central Railway Hospital.

8. Besides that I find that whenever an explanation was asked for from the applicant he had been shifting his stand for example in one of the letters he has stated that one of his sons had removed the patient and taken to Sir Ganga Ram Hospital and he was not aware that he was to take the patient to the Central Railway Hospital. This explanation put forward by the applicant cannot be relied upon because the family members of the railway employees or the Government employees are very well aware that from where they are entitled for medical treatment and what medical facilities are available to them.

9. As regards the delay for 45 days when the patient was suffering from fever the applicant has given an explanation that the patient was given homoeopathic treatment so there was no need but when

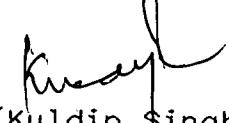


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the condition of the patient suddenly deteriorated she was directly taken to the hospital. This does not appear to be justified explanation as given by the applicant so I find that the authorities have rightly rejected his claim. During those 45 days illness before being hospitalised, the family must have discussed also as to where from the treatment was available and could be taken.

10. In view of the above, I am of the considered opinion that the condition of the patient had not suddenly become a case of extreme emergent condition that the patient was required to be taken to Sir Ganga Ram Hospital without being referred by the authorised medical attendant.

11. Hence I find that the OA has no merits and the same is dismissed. No costs.


(Kuldip Singh)
Member (J)

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