

Central Administrative Tribunal
Principal Bench

O.A.No.299/98

Hon'ble Shri R.K.Ahooja, Member(A)

New Delhi, this the 13th day of August, 1998

(b)

Shri S.P.Kapur
s/o Shri M.L.Kapur
r/o 4-C/14
Old Rajinder Nagar
New Delhi. Applicant

(By Shri H.C.Sharma, Advocate)

Vs.

Union of India through
Secretary to the Govt. of India
M/o Health
Nirman Bhawan
New Delhi. Respondent

(By Shri M.K.Gupta, Advocate)

O R D E R

The applicant is aggrieved by the refusal of the respondents to reimburse to him full expenses incurred by him on his medical treatment. The facts of the case briefly are that the applicant retired as a Class-I Officer from Government service on 31.10.1991. Under the Government of India's Scheme, he is a CGHS beneficiary with Nursing Home facilities. The applicant suffered a massive heart attack on 3.1.1994 and was rushed to the nearest nursing home, namely, Kolemet Nursing Home for first aid and was there advised to be taken to the Escorts Heart Institute & Research Centre which is recognised by CGHS. He was admitted on 6.1.1994 and was discharged on 13.1.1994. The Institute preferred a bill of Rs.1,22,675/-. Another bill for Rs.16,346/- was preferred by the Kolemet Nursing Home. The applicant thus incurred a total expenditure of Rs.1,39,021/-. He made a prayer for reimbursement of this amount through the Health Ministry which sanctioned an amount of Rs.51,401/-. The applicant's contention is that the

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respondents having admitted the gravity of the ailment, and the need for treatment, he is entitled to the full reimbursement of the expenditure incurred by him.

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2. The respondents in reply have denied that the Escorts Institute was recognised for such treatment at the relevant time. They submit that they have accordingly allowed the reimbursement on the basis of the charges levied by the All India Institute of Medical Sciences.

3. I have heard the counsel on both sides. It was contended by the learned counsel for the applicant that the Hon'ble Supreme Court, in its land mark Judgement in Surjeet Singh Vs. State of Punjab and Others, JT 1996(2) SC 28, has settled this issue. In that case the Supreme Court had directed the reimbursement of the charges levied by the Escorts Institute when the respondents had only reimbursed the rates leviable by All India Institute of Medical Sciences. The learned counsel for the respondents, Shri M.K.Gupta however submitted that the present case is distinguishable from that of Surjeet Singh (Supra). In the latter case, the Punjab Government which was the reimbursing authority had itself recognised Escorts Institute as one of the hospitals where a serving or a retired punjab Government could obtain open heart surgical treatment subject to certain conditions.

4. I find that it was in fact in the context of non-compliance of some of the conditions like a referral by a medical board, that the Hon'ble Supreme Court had made the observations to which my attention was drawn by

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the learned counsel for the applicant. The applicant in the case before me is not a beneficiary of the medical facilities provided by the Government of Punjab. He is a CGHS beneficiary and as respondents state at the relevant time, Escorts Institute was not one of the recognised institute by the Government of India. Since then the Government of Punjab have also taken out the Escort Institute from its list of ~~its~~ approved institutions and the Hon'ble Supreme Court in a subsequent decision State of Punjab & Others Vs. Ram Lubhaya Bagga & Others, 1998(4) SCC 117 upheld the change of the policy of the Govt. of Punjab and observed as follows:

"No State or any country can have unlimited resources to spend on any of its projects. That is why it only approves its projects to the extent it is feasible. The same holds good for providing medical facilities to its citizens including its employees. Provision of facilities cannot be unlimited. It has to be to the extent finances permit. If no scale or rate is fixed then in case private clinics or hospitals increase their rate to exorbitant scales, the State would be bound to reimburse the same. Hence we come to the conclusion that principle of fixation of rate and scale under this new policy is justified and cannot be held to be violative of Article 21 or Article 47 of the Constitution of India."

5. I therefore find that applicant cannot claim the reimbursement of the expenses incurred by him in the Escort Institute on the strength of Surjeet Singh (Supra). I also find that this is not a case of compulsion but of choice in obtaining treatment at the Escort's Institute. The applicant says that he was first admitted in a nursing home and from there he went to Escorts Institue purportedly on the advise of the doctors of the Nursing Home. It is not as if he tried to obtain admission in All India Medical Sciences and was refused this facility. Therefore having taken treatment at a non recognised Institute by choice he cannot claim reimbursement beyond the maximum provided by CGHS Rules

which are the charges leviable at All India Institute of Medical Sciences. This admittedly he has already received.

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6. Under the above circumstances, I find no merit in this OA which is accordingly dismissed. No costs.

Rao
(R. K. Ahuja)
Member (A)

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