

Central Administrative Tribunal
Principal Bench.

O.A. No. 2113/95

New Delhi on this 11th day of October, 1996

Hon'ble Smt. Lakshmi Swaminathan, Member(J).

Mrs. Nirmal Gupta,
W/o Mr. D.D. Gupta,
4/32-A, Punjabi Bagh,
New Delhi. .. Applicant.

By Advocate Shri M.K. Gupta.

Versus

1. The Secretary (Education),
Govt. of NCT of Delhi,
5, Sham Nath Marg,
Delhi.
2. The Director of Education,
Govt. of NCT of Delhi,
Old Secretariat,
Delhi.
3. The Principal,
Govt. Comp. (Model) Sr. Secondary School for Girls No.2,
Secondary School for Girls No.2,
New Delhi. .. Respondents.

By Advocate Shri S.K. Gupta, proxy counsel
for Shri B.S. Gupta.

O R D E R

Hon'ble Smt. Lakshmi Swaminathan, Member(J).

Both counsel heard and perused the records. At the time of hearing Shri M.K. Gupta, learned counsel for the applicant, submitted that having regard to the provisions of Rule 10 of the CAT (Procedure) Rules, 1987, he is confining himself to the relief in the O.A. relating only to the payment of medical bills. Therefore, the other reliefs are not being considered in this

O.A.

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2. According to the applicant, while she was in service in the Government Comp (Model) Senior Secondary School for Girls No.2, Punjabi Bagh, New Delhi, she became unconscious in the School on 26.2.1994 and was removed to the nearby Maharaja Agarsain Hospital, Punjabi Bagh in an emergency condition and remained there from 26.2.1994 to 2.3.1994. She submits that she was initially kept in the ICU and thereafter was shifted to one of the rooms on 27.2.1994. In the hospital, she had incurred expenditure for various tests, room rent, etc while she was under treatment for which she had submitted a bill for Rs.10,051.15 for reimbursement which was rejected. She, ~~vacation~~, ^{Further, 18/2} submits that when her condition improved, she was referred to the All India Institute of Medical Sciences (AIIMS) in view of ^{the 18/2} medical complications. According to the learned counsel for the applicant, her treatment at the private hospital, namely, Maharaja Agarsain Hospital at Punjabi Bagh was due to emergent circumstances as certified by the hospital on 7.3.1994. Therefore, he has impugned the rejection letter issued by Respondent 2 stating that the case was not covered ^{case is} in the emergency under the C.S. (MA) Rules, 1944, which was incorrect and against the rules. In addition to the bill submitted by the private hospital, a further bill for Rs.3951.49 in respect of the expenditure incurred by her for treatment at AIIMS was also submitted which has also been rejected on the ground that it is not in accordance with the rules.

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3. The reply filed by the respondents has been perused and I have also considered the arguments of the learned counsel for the respondents Shri S.K. Gupta.

4. It is seen from the letter issued by the respondents dated 11.7.1994 that they have rejected the medical claim with the remarks that treatment was not taken in emergency and not covered under CS(MA) Rules, 1944; in the letter dated 10.9.1995/ that the claim has been returned with the remarks that the case is not referred by an Authorised Medical Attendant for Delhi Administration Employees, as~~d~~ Maharaja Agarsain Hospital is not A.M.A. for the Delhi Govt. employees and, therefore, not covered under the C.S. (MA) Rules, and in the letter dated 3.11.1995 they have stated that the case had been referred to the Director of Health Services through Director of Education who had been informed that the case cannot be covered under C.S. (M.A) Rules and, therefore, rejected. In the reply they have also stated that both Maharaja Agarsain Hospital and AIIMS hospital are not Authorised Medical Attendant (AMA) for Delhi Govt. employees.

5. Section 2(d) of the C.S. (MA) Rules defines ~~that~~ "Government Hospital" to include a departmental dispensary and a hospital maintained by a local authority and any other hospital with which arrangements have been made by the Government for the treatment of Government servants. Shri M.K. Gupta, learned counsel, has contended that the AIIMS is one such hospital where Government servants could be treated as per

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the rules. He also relies on the Ministry of Health and Family Welfare O.Ms No. S.14012/9/75-MC (MS) dated 23.2.1977, 7.5.1979 and 18.6.1982 (Annexure A-2) in which the following decisions have been conveyed:

- (i) In emergent case involving accidents, serious nature of disease, etc., the person/persons on the spot may use their discretion for taking the patient for treatment in a private hospital in case no Government or recognised hospital is available nearer than the private hospital. In such cases, the Controlling Authority/Department will have to decide on the merits of each case whether it was a case of real emergency necessitating admission in a private institution. If the Controlling Authorities/Departments have any doubt, they may make a reference to the Director General of Health Services for opinion.
- (ii) In clause (2) of the same O.M., a clarification has also been given that the patient while he is in a private hospital should act according to the advice of the hospital authorities. He should get his discharge from the hospital only when the hospital authorities discharge him.

6. As mentioned above, /Maharaja Agarsain Hospital have in their certificate dated 7.3.1994 stated that the applicant was suffering from 'Focal Epilepsy c Generalisation and admitted in emergency' and was

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under treatment from 26.2.1994 to 02.3.1994 in that hospital.

6. In view of the above facts and circumstances, it is not clear if the respondents while rejecting the applicant's claim for medical reimbursement on the basis that this is not an emergency case have done so in accordance with the relevant rules and instructions, including reference to the Director General, Health Services for opinion. Considering the certificate issued by the private hospital that the applicant was, in fact, admitted in an emergency situation on 26.2.1994, therefore, there is need to have this matter re-examined by the competent authority in the light of the relevant provisions of law.

7. In the circumstances, this O.A. is disposed of directing the Respondent 2 to have the case papers of the applicant referred again to the Director General of Health Services expeditiously for his opinion. Thereafter, the respondents are directed to take a decision in the matter regarding reimbursement of the medical expenses incurred by the applicant for her treatment at Maharaja Agarsain Hospital and AIIMS where she was referred later on, in accordance with the extant rules and instructions, within a period of three months from the date of receipt of a copy of this order.

8. O.A. is disposed of accordingly. No order as to costs.

Lakshmi Swaminathan
(Smt. Lakshmi Swaminathan)
Member(J)