

Central Administrative Tribunal, Principal Bench

O.A.No.2478/95

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

New Delhi, this 13th day of March, 1997

(By Shri M.L.Chawla, Advocate with Shri
S.L.Lakhanpal, Advocate)

vs.

1. Union of India(Through the Secretary to the Govt. of India, Ministry of Surface Transport, Transport Bhawan 1, Parliament Street New Delhi - 110 001.
2. Secretary to the Govt. of India
M/o Health & Family Welfare
Department of Health
Nirman Bhawan
New Delhi - 110 003.
3. Director-General
Directorate General of Health Services
Central Govt. Health Scheme(CGHS)
R & H Section, Nirman Bhawan
New Delhi - 110 003. Respondents

(By Shri Shri V.S.R.Krishna, Advocate)

ORDER (Oral)

The applicant who is employed in the Ministry of Surface Transport in the post of Upper Division Clerk (UDC) is aggrieved that the medical reimbursement bill submitted by him in regard to the treatment of his wife in the private hospital has been rejected by the respondents vide impugned order, Annexure A1. The brief facts of the case are that the applicants wife was a chronic patient of Hyper Tension and related problems and had been under prolonged treatment of CGHS as well as Safdarjang Hospital. On 21.11.1990, she suddenly developed a serious problem with

high Blood Pressure, high Blood Sugar and fasting, swelling all over the body with acute respiratory problem. As advised by a private doctor, the applicant took his wife to the Mool Chand Hospital, Lajpat Nagar, New Delhi-3, a private hospital which was then not recognised by the Government for treatment of Government servants. The applicant submits that he spent a sum of Rs.30,802/- on the treatment of his wife in that hospital as an indoor patient. Sometime after her discharge she got a severe relapse and her condition having deteriorated once again, in the interest of patient's health, the applicant took her back to the same hospital on 30.12.1990. This time the bill amounted to Rs.1,645/-. This was followed by a third admission on 4.1.1991. On that occasion, she remained as an indoor patient from 4.1.1991 to 20.1.1991. The Bill for hospitalisation came to Rs.45,055/-. The applicant thereafter submitted a reimbursement claim amounting to Rs.79,955.90 including the cost of medicines.

2. The claim was passed on to the Ministry of Health who called upon the applicant to file a certificate that the admission in private hospital was not by choice. The necessary certificates were submitted but the competent authority rejected the claim vide letter dated 28.6.1994, Annexure A9.

3. A representation was made to the next higher authority, the Additional Secretary, Health but without assigning any reason the appeal was also rejected vide letter at Annexure A10. The appellate authority was also approached and here again the applicant met with a negative response. The applicant submits that considering the conditions of his wife, he had no choice but to take her to

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the nearby hospital and since the hospital in question namely, Mool Chand Hospital was a charitable hospital, in the interest of the treatment of his wife, she was admitted therein. On latter occasions for the sake of continuity of the treatment, the patient had to be taken to the same hospital. He also submits that the emergency condition of the wife could be seen by the fact that she soon thereafter passed away on account of the medical condition for which she had been admitted.

4. The respondents in reply state that the case of the applicant for reimbursement had to be rejected in terms of Government of India OM. No.S-11012/1/91-CGHA(P)(Vol.I) dated 18.3.1992. There is a provision for settlement of claims on account of treatment in unrecognised private hospitals but such claims are to be considered only when treatment has to be taken in private unrecognised hospitals in an emergency and each case for that purpose has to be examined on merits. The patient in this case was suffering from a chronic disease of hyper tension and related problems and it was thus not a case of an emergency. In any case the applicant could have obtained the treatment for his wife either on Safdarjung Hospital or AIIMS which were also located nearby to his residence.

5. I have heard the counsel on both sides. The learned counsel for the applicant submits that the applicant, had, considering the grave emergency arising out of the sudden deterioration due to high blood pressure, no alternative but to take the patient to the nearest hospital. The Hon'ble Supreme Court has also observed in the case of Pt. Parmanand Katara Vs. UOI & others, AIR 1989 SC 2039 that there can be no second opinion that preservation of human

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life is of paramount importance. That is so on account of the fact that once life is lost, the status quo ante cannot be restored as resurrection is beyond the capacity of man. Ultimately, the treatment in the hospital shows that applicant's assessment regarding the emergency was not misplaced. He also relied on the judgements of this Tribunal in N.B.Rao through Legal Representative Vs. Union of India, ATJ 1995(2) 542 and Sharad Diganber Bakare Vs. Secretary, Ministry of Defence & Others, SLJ 1996(2) CAT 589 where the full reimbursement was allowed despite the fact that the patient was not taken to the government hospital but to a private hospital in a situation of emergency.

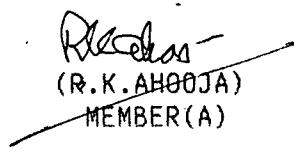
6. The learned counsel for the respondents emphasised the point taken in the reply statement that the experts in the CGHS had assessed the case to the one of the chronic disease and not an emergency and it was their assessment which was to be the basis of reimbursement in such a case.

7. I have carefully considered the arguments advanced on behalf of both the parties and gone through the record of the case. The applicant himself states that the patient had been suffering from hyper tension and related problems and was also under treatment of CGHS and Safdarjung Hospital. His explanation for taking the patient to the private hospital is that it was a charitable institution and was near to his house. On later occasions he had taken the patient to the same hospital in the interest of continuity of treatment. To an extent this would support the contention of the respondents that taking the patient to a private hospital was more a matter of choice than of necessity. Nevertheless the fact remains that even if the patient had been taken into the government hospital certain expenses

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been taken into the government hospital certain expenses would have been incurred by the Government. Institutions like the AIIMS, have certain fixed rates for treatment and for undertaking surgical and medical procedures and providing medicines etc. In a similar case, i.e. Surjit Singh Vs. State of Punjab and Others, JT 1996(2) SC 28 the Supreme Court also decided that the reimbursement should be allowed to the extent that charges are levied at the highest institution at which the government servant is entitled to receive treatment. I consider that in the ratio of that order, in this case also, the applicant would be entitled to reimbursement to the extent of charges which would have been levied in the AIIMS to which the respondents themselves say that the patient could have taken his wife.

8. In the facts and circumstances of the case, I dispose of this OA with direction that the Respondent No.1 in consultation with Respondent No.2 will determine the charges for indoor treatment, medical procedures and further medicines etc. which would have been leviable for the treatment of applicant's wife in AIIMS and reimburse the same to the applicant within a period of three months with interest at 12 % from the date of filing of the reimbursement papers. No costs.


(R.K. AHOOJA)
MEMBER(A)

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