

Central Administrative Tribunal
Principal Bench: New Delhi

OA 1500/96 & OA 1517/96

New Delhi this the day of March 1997.

New Delhi this the 7th day of March 1997.

(14)

Hon'ble Mr N. Sahu, Member (A)

OA 1500/96

Shri Shiv Ram
S/o Shri Thakur Dass
Machineman, Govt. of India Press
Faridabad - 121 001

...Applicant.

(By advocate: Shri D.R.Gupta)

Versus

Union of India through

1. Secretary
Ministry of Urban Development
Nirman Bhawan
New Delhi
2. Secretary
Ministry of Health & Family Welfare
Nirman Bhawan
New Delhi.
3. Director of Printing
Ministry of Urban Development
Nirman Bhawan
New Delhi.
4. Manager
Govt. of India Press
Faridabad -- 121 001.

...Respondents.

(By advocate: Shri N.S.Mehta)

OA 1517/96

Shri Attar Chand
S/o Shri Ramji Dass
Machineman, Govt. of India Press
Faridabad.

...Applicant.

(By advocate: Shri D.R.Gupta)

Versus

Union of India through

1. Secretory
Ministry of Urban Development
Nirman Bhawan, New Delhi.

2. The Secretary
M/o Health & Family Welfare
Nirman Bhawan, New Delhi.

3. Director of Printing
M/o Urban Development
Nirman Bhawan
New Delhi.

4. The Manager
Govt. of India Press
Faridabad.

...Respondents.

(By advocate: Shri N.S.Mehta)

O R D E R

Hon'ble Mr N. Sahu, Member (A)

Common facts and common grounds are involved in both these applications and, therefore, /disposed of together by this common order. It is sufficient to take the facts of the case in OA 1517/96.

2. The applicant on the recommendations of his authorised medical attendant sought approval for specialised treatment from Batra Hospital, which was approved by the Director General (Health Services), Chandigarh by his letter dated 9.2.95. The Batra Hospital authorities sent an estimate which was approved and the applicant was permitted to be treated there. The senior CMO, CGHS Dispensary by his letter dated 2.3.95 had requested the Medical Superintendent, Batra Hospital to provide necessary treatment facilities and also accommodation as per the applicant's status. Respondent No.4 remitted an amount of Rs. 1,02,250 to the Batra Hospital towards the applicant's charges for by-pass surgery. The applicant remained in the hospital from 3.3.95 to 18.3.95. This application is filed against impugned order dated 21.5.96 issued by respondent No.4 directing the applicant to arrange for refund of Rs. 38,250 paid to the hospital in excess on account of coronary by-pass surgery. According to a circular OM dated 20.7.94 issued by respondent No.2, there were fixed rates to be charged for coronary

by-pass surgery in recognised private hospitals depending on the pay structure of the patient. The rate to be charged was fixed at Rs. 64,000. It has been provided in the circular referred to above dated 20.7.94 that the hospital will not charge over and above the package rate mentioned therein from the CGHS beneficiaries. Inspite of this package deal which was circulated to respondent No.4 later, the hospital authorities sent a bill for a sum of Rs. 1,02,250 and the bill was paid. Over and above the ceiling, the respondents intend to recover from the applicant. It is submitted on behalf of the applicant that the estimate given by the Batra Hospital for Rs. 1,02,250 was submitted alongwith his application for permission to receive treatment at the said hospital and the payment was made on that basis. If any excess payment had been made over and above the ceiling fixed for which the hospital authorities should have confirmed, it is for the respondents to recover the excess amount from the hospital authorities. The dispute now is between Batra Hospital authorities and the respondents, and the applicant, a low paid employee, could not pay such a high amount. It is urged that the respondents are estopped from recovering the sum because they failed to inform the applicant that he was not entitled to receive treatment at a cost of Rs. 1,02,250 and the said claim would be restricted only to Rs. 64,000. If any refund has to be made, it is for the Batra hospital authorities to make the refund for going back on the package deal.

3. It is submitted in the counter affidavit that the respondents did not have any information about the package deal between Ministry of Health and the hospital authorities. The hospital authorities were requested to refund the excess amount but they refused on the plea that the applicant did not produce any referral letter at the time of admission.

4. I have considered the submissions made by the learned counsel on either side. A dispute on medical reimbursement has recently been adjudicated by the Apex Court in State of Punjab & Ors. Vs. Mahinder Singh Chawla JT 1997 (1) SC P.416. The facts there were that the respondent suffered a heart ailment for which, in the absence of facilities in his home State, he was referred to AIIMS, New Delhi. His claim for actual expenses of Rs. 1,29,000 was allowed except for the bill for room rent paid to the hospital as inadmissible. The beneficiary official contended that room rent is an integral part of the expenses for treatment and, therefore, he was entitled to reimbursement of the room rent paid. The Supreme Court held that once permission for specialised treatment was given and the case of the applicant was referred to AIIMS, the room rent was an integral part of the expenditure incurred on the treatment on the ground that right to health is integral to right to life. The Government has a constitutional obligation to provide health facilities. "It is incongruous that while the patient is admitted to undergo treatment and he is refused the reimbursement of the actual expenditure incurred towards room rent and is given the expenditure of the room rent chargeable in another institute whereat he had not actually undergone treatment." After the decision of the Apex Court on the subject, the case of the applicant here is now based on solid grounds. Even on the facts of the case the amount was directly payable to Batra hospital by the Department. Applicant had obtained the estimate and this was approved by the department and it was only at the instance of the Chief Medical Officer that the applicant was treated in the General Ward. Under these circumstances, no portion of the amount paid by the respondents to the hospital can be recovered from the applicant. Let us ignore the package deal or the understanding between the respondents and hospital authorities. The CGHS recommended the case, the hospital authorities examined and submitted an estimate of the cost which was produced for approval before the respondents. Having approved this amount and the

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having applicant undergone the operation and the amount paid to the hospital authorities, there is no justification to recover any part of the amount from the applicant. On ~~merits~~, on first principles, the case is covered by the Supreme Court decision cited above. Even otherwise, it is for the respondents if so advised to recover the amount from the hospital authorities if such a payment was held to be over and above any understanding the respondents had or the Ministry had with the Batra Hospital. Respondents are directed in both these cases not to recover any part of the amount. The impugned order dated 21.5.96 in the case of OA 1517/96 and the impugned order of even dated in OA 1500/96 are hereby quashed.

Narinder Singh
[N. Sahu] 11/3/97
Member (A)

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