

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A.NO.1786/96

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

New Delhi, this 6th day of December, 1996

Shri Rahul Singh
s/o Shri R.N.Singh
A210 Pandara Road
New Delhi.
(Applicant in person)

... Applicant

Vs.

1. Union of India, through
Secretary, Department of Defence
South Block
NEW DELHI.

2. Joint Secretary(Administration & Trg.)
Ministry of Defence, Dalhousie Road
C II Hutmants DHQ Post Office
NEW DELHI.

3. Additional Director Central Govt. Health
Scheme, Nirman Bhawan
New Delhi - 110 011. ... Respondents

(By Shri Madhav Panikar, Advocate)

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The applicant is aggrieved that the respondents have rejected his medical reimbursement claim on account of treatment of his daughter in a private hospital, vide letters dated 26.10.1995 and 1.3.1996 (Annexure 9 & 10).

2. The applicant submits that his daughter aged 11 years developed acute pain in the abdomen and other symptoms on 9th June, 1995 and was taken by his wife to Moolchand Hospital. The doctor attending her described her condition as serious and the child was admitted to the Pediatric Intensive Care Unit immediately. She was fed intravenously for three days and had to stay Contd....2/-

for 11 days in all in the hospital. The applicant further states that he approached the Wellington (RML) Hospital for transfer of his daughter but since a condition was imposed that the doctor attending to her in Moolchand must certify that the patient was in a condition to be shifted, he could not avail of this facility ^{because} ~~since~~ considering the condition of the patient, the doctor incharge at Moolchand was not willing to issue the requisite certificate. The applicant thereafter submitted a claim for reimbursement of an amount of Rs.18,469/- on 26.6.1995, but by the impugned orders the claim was rejected, on the ground that the treatment could have been taken in AIIMS or Safdarjung Hospital. The applicant contests this rejection on the ground that it was a case of real and serious emergency, as shown by the fact that the child was admitted to the ICU, and also confirmed by the fact that the RML Hospital refused to accept the transfer of the patient without a Fitness for Transfer Certificate. He also submits that the cost of Intensive Care accommodation in AIIMS is not less than that of Moolchand and in any case the possibility of getting admission in Intensive Care Unit in AIIMS was extremely remote, the same being a referral hospital for VIPs. It is also claimed that in similar other cases, the Additional Director CGHS has been exercising his discretion by granting approval, as for one Shri Dilip Kumar, Deputy Chief Admn. Officer, M/o Defence, where such claim was allowed in respect of treatment even in a private nursing home.

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3. The respondents, in their reply, have reiterated the grounds adduced in the rejection letters, viz., that the patient could have been taken either to AIIMS or Safdarjung Hospital, which are only a few kilometers from the applicant's residence. They also add that there is a CGHS Dispensary at Wellesley Road which provides 24 hours round the clock service and the same is located very near to the residence of the applicant at Pandara Road. They controvert the allegation of the applicant regarding discrimination and state that in case of Shri Dilip Kumar, his son had acute pain in his abdomen and was immediately rushed to the nearest hospital which happened to be a private nursing home, in an unconscious state and he had to be operated upon at once. This was then recognised as a case of acute emergency.

4. I have heard the applicant who appeared in person and the learned counsel for the respondents and have also gone through the pleadings on record. The applicant submitted that when the emergency arose, his wife took the child to the nearest hospital she could think of. It being an emergency case, thereafter the child could not be shifted. He pointed out that admissions in AIIMS are very difficult as it is a referral hospital and there are lot of VIPs to be attended to. He denied that AIIMS or Safdarjung were any nearer to his home at Pandara Road than Moolchand. He submitted that the level of emergency was acute as pointed out by the doctor incharge and his daughter had in fact to be

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admitted at once to the ICU for emergency care. The claim was not being refused on the ground that it was not an emergency, but only ~~because~~ that the same emergency treatment could have been obtained in a Government hospital. The learned counsel for the respondents on the other hand argued that the applicant had the choice of either going to the CGHS dispensary at Wellesley Road, open round the clock, or choosing between RML, AIIMS or Safdarjung Hospital; instead he chose to go to Moolchand Hospital which was much farther off from his residence than AIIMS. The patients are not refused admission in either Safdarjung or AIIMS and it is only a presumption of the applicant that the patient could not have got admission in AIIMS if she had been taken there.

5. I have considered the matter carefully. The respondents have not taken the stand that this was not a case of a genuine emergency. This being so, the paramount consideration was the treatment of the patient. The wife of the applicant could not be expected in these circumstances to measure the distance in feet and yards to judge whether AIIMS or Moolchand was nearer to her house. In the moment of crisis, she took her daughter to the hospital where she thought that the child would receive immediate attention. Thereafter, as has been explained by the applicant, the shifting of the patient in her acute medical condition became difficult. The applicant has sought to rely on the case of Surjit Singh Vs. State of Punjab, JT 1996(2) SC 28 in support of his claim. The facts in that case were somewhat different as the

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appellant there did not have to stand in a long queue in a Government hospital and could go elsewhere to an alternate hospital as per existing government policy. This was not so specifically in the present case. However, in the principle enunciated therein that the respondents pay in such cases the rates admissible in hospitals where treatment could be obtained as per policy is relevant here. The respondents themselves state that the patient could have been taken for admission to AIIMS. The AIIMS levies certain charges in such cases. If the rates charged by the Moolchand Hospital are over and above those which would have been chargeable in AIIMS, the claim of the applicant for reimbursement can be confined to the rates applicable in AIIMS.

6. In the light of the above discussion, since the respondents do not say that this was not a case of emergency, they are directed to reconsider the medical reimbursement claim of the applicant and allow it to the extent that the charges would have been levied by AIIMS for similar treatment. This should be done and payment made to the applicant within a period of three months from today.

7. The application is allowed and disposed of accordingly. No order as to costs.

R.K. Ahuja
(R.K. AHOOJA)
MEMBER(A)

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