

Central Administrative Tribunal
Principal Bench

O.A.No.2010/96

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

New Delhi, this the 10th day of December, 1997

Shri Jagdish
s/o Shri Begraj
r/o 89, Hauz Rani
Malviya Nagar
New Delhi - 17.

... Applicant

(By Shri Umesh Singh, Advocate)

Vs.

1. Govt. of National Capital Territory of Delhi
through its Chief Secretary
5, Sham Nath Marg
Delhi - 110 054.

2. The Development Commissioner
Delhi Administration
5/9 Under Hill Road
Delhi - 110 054.

3. The Dy. Conservator of Forest
Kamla Nehru Riz
Delhi Administration
Delhi.

... Respondents

(By Shri Ajesh Luthra, proxy of Ms. Jyotsna Kaushik, Advocate)

O R D E R (Oral)

The applicant submits that he is working as a permanent labourer in the forest department since 16.4.1985. On 28.2.1995 his wife, who was seriously sick since 1993, went into a coma and was admitted to the Safdarjung Hospital in a serious condition. However, on 3.3.1995 the doctors in the said hospital went on strike and stopped looking after the patients. Due to this strike all the patients, who were admitted in the said Hospital, were advised to go to some other hospital for obtaining the treatment and a news item was also published in the Indian Express on 3.3.1995, wherein the general public were advised to visit any of the five nearby private hospitals. The name of Gujarmal Modi Hospital was also included in these five hospitals. The applicant submits that as his wife was in a serious condition, he had taken her to the Gujarmal Modi Hospital, Saket.

The treatment taken by the applicant's wife in the private hospital resulted in a total bill of Rs.58,838/-. However, when he sought reimbursement of this amount, under the rules, from the respondents the same was denied. Aggrieved by the action of the respondents for not reimbursing the amount of the bill of the private hospital, the applicant has approached this Tribunal.

2. The respondents in reply have stated that they never advised the public to go to Gujarmal Modi Hospital and in any case the applicant could have gone to one of the other Govt. Hospital if doctors were on strike in Safdarjung Hospital. They however state that they were ready to pay a sum of Rs.32811/- to the applicant which was sanctioned on the instructions of Director General of Health Services but the applicant is refusing to accept this payment.

3. I have heard the counsel on either side. The learned counsel for the applicant has produced a judgment of the High Court of Delhi in Ram Dhari Vs. Delhi Administration & Others, 48 (1992) Delhi Law Times. (SN) 4 (DB). In that case the petitioner therein had admitted his wife into Ganga Ram Hospital, a private hospital where she ultimately died. He submitted a bill of Rs.35152/- for reimbursement out of which only a sum of Rs.19721/- was paid and the reimbursement of the rest was declined. The High Court held that the conduct of the respondents was unreasonable as in a case of emergency, it is not possible all the time, to obtain endorsement from the Authorised Medical Attendant before patient is admitted in the hospital. I agree with the learned counsel that the ratio of this conclusion of the High Court applies squarely in the present case also. More so as the present case the applicant had duly taken his wife first to a Govt. hospital for treatment but thereafter due to the strike in that hospital, he was advised to take his wife

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elsewhere. The news item quoted gives credence to his claim that he was advised by the hospital authorities to take his wife to any one of the five private hospitals including the Gujarmal Modi Hospital, Saket.

4. In the facts and circumstances of the case, the action of the applicant in taking his wife to the Gujarmal Modi Hospital cannot be faulted. The respondents themselves have in fact agreed to make a part payment of Rs.32,811/- though they have not given any reason for declining to reimburse the remaining amount.

5. In the light of the above discussion, the application succeeds and the same is allowed. The respondents are directed to reimburse the remaining payment within two months from the date of receipt of a copy of this order. No costs.

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

/rao/