

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

O.A. No.55 of 1996

New Delhi this the 17th day of February, 1997

HON'BLE MR. K. MUTHUKUMAR, MEMBER (A)

Smt Kulwant Kaur Karnal
Nursing Sister
Dialysis Unit, G.T.B. Hospital,
Shahdara, Delhi-95.Applicant

By Advocate: Shri Ashok Aggarwal.
Versus

1. Government of National Capital Territory of Delhi
Through Secretary (Medical)
5 Sham Nath Marg
DELHI-110054.
2. The Administrative Officer
Office of the Medical Superintendent
Guru Teg Bahadur Hospital
Government of N.C.T. of Delhi
Shahdara
DELHI-110095. Respondents

By Advocate: Shri Girish Kathpalia

O R D E R (Oral)

Mr K. Muthukumar, M((A))

This application has been filed under Section 19 of the Administrative Tribunals Act, 1985, seeking reimbursement of medical expenses incurred by the applicant for operation of her husband in the Escorts Heart Institute & Research Centre, Okhla Road, New Delhi-110025 (hereinafter referred to as Escorts). The applicant claims that

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she had spent Rs.70,000/- on the operation and, therefore, prays that this amount may be reimbursed to her. In her pleadings she has submitted that Escorts was recognised by the Government of India by order dated 3.5.90 and also by order dated 28.3.94 (Annexures E & F). The applicant, therefore, claims that she would be entitled to have her prayer allowed in view of the Government of India's orders on the subject. The claim is on account of medical charges for ~~undergoing~~ by-pass surgery performed on her husband on 3.5.90 and he was under treatment from 24.4.90 to 16.5.90. The applicant also submits that the operation had to be performed on emergent basis in Escorts as otherwise her husband's case would have become very fatal and she had no other alternative except to have it done at Escorts as she was not in a position to shift him to any other hospital having similar facilities. She also submits that the admission to Escorts became necessary as the applicant's husband suffered a stroke on 24.4.90 when he was in his relative's house in Faridabad and Escorts happened to be close by. She had no time also to obtain any medical attendance. She claims that the expenses have been incurred on genuine grounds. She pleads that her prayer for reimbursement may be allowed.

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The respondents have, in their reply, submitted that the applicant was a Staff Nurse under the Government of Union Territory of Delhi. Her application for reimbursement was rejected by the Directorate of Health Services, New Delhi and the matter was also referred to the Union Health Minister. The respondents have also submitted that Escorts was recognised for the purpose of reimbursement of expenses connected with heart surgery by the Government of India vide its letter dated 28.3.94. The by-pass surgery in the case of the applicant's husband was performed only in April/May 1990 and at that point of time Escorts was not a recognised hospital and on this ground it was not possible to allow her representation.

When the matter came up for hearing on 15.11.96, the respondents were asked to clarify whether the employees of the Government of Union Territory of Delhi in 1990 were governed by the Central Government Health Scheme and whether there was any recognised government hospital for treatment of heart diseases including by-pass surgery. The learned counsel for the respondents,

on instruction from the respondents, has submitted that the employees of the Government of Union Territory of Delhi are not governed by Central Government Health Scheme and G. B. Pant Hospital and the All India Institute of Medical Sciences are the recognised hospitals for treatment of heart diseases including by-pass surgery. It is also submitted that both the Hospitals charge for heart surgery.

The learned counsel for the respondents has cited the case of Surjit Singh Vs State of Punjab & Ors [1996 (2) SCC.336] where similar question arose in respect of reimbursement of medical expenses of a employee of Punjab Government who had to undergo open heart surgery in a foreign country without subjecting himself to medical examination as per policy of the Government and at that time specialised treatment was also not available and in view of this, a number of private including hospitals were recognised by the Government/ Escorts Heart Institute, New Delhi. In view of the matter, taking into consideration the policy regarding reimbursement of medical expenses framed by the State of Punjab in that case, the Hon'ble Supreme Court allowed the petition and held that it was fair and just that the respondents pay to the

applicant the rates admissible as per Escorts.

In the present case, however, the fact remains that at the time when the operation was performed, Escorts was not specifically recognised. But the circumstance which necessitated the applicant to take her husband to the nearest hospital particularly when the applicant's husband was in Faridabad makes it an extenuating one. Had he been admitted in the All India Institute of Medical Sciences, it would have involved a delay with a possible risk to his life. The learned counsel for the respondents has fairly conceded that in the circumstances of the case, there should be no valid objection to the respondents to consider the claim of the applicant limited to what is being charged by the All India Institute of Medical Sciences particularly after considering the extenuating circumstances in this case.

The applicant has taken right steps that were available to her in preserving life of her husband by taking him to the nearest hospital. This fact is not disputed by the respondents. Considering the totallity of the facts and circumstances of the case, I am of the view that

the applicant has made the case for reimbursement of medical expenses. In this case, as Escorts was not recognised at that time but has been recognised now and as the same treatment was available in the All India Institute of Medical Sciences at that time, it would be only fair and just that the applicant is allowed reimbursement of medical expenses at least at the rates as are charged by the All India Institute of Medical Sciences for similar surgery.

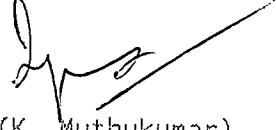
Accordingly, this application is disposed of with a direction to the respondents to reimburse the medical expenses incurred by the applicant for operation and treatment of her husband, limited to what was being charged by the All India Institute of Medical Sciences for by-pass surgery and attendant treatment at the Institute. The learned counsel for the applicant also presses for payment of interest on the medical expenses incurred by the applicant. I find that the applicant in this application has not prayed for the interest. The plea for interest is rejected.

The above direction shall be complied with by the respondents within a period

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of two months from the date of receipt of a copy of this order. There shall be no order as to costs.



(K. Muthukumar)

Member(A)

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