

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH, NEW DELHI

O.A.No. 1289 /1997

Date of Decision: 30-6-1998

Shri G.R. Arya

APPLICANT

(By Advocate Shri D.C. Vohra)

versus

Union of India & Ors.

RESPONDENTS

(By Advocate Shri S.K. Gupta for Sh. B.S. Gupta)

CORAM:

THE HON'BLE SHRI

THE HON'BLE SHRI S.P. BISWAS, MEMBER(A)

1. TO BE REFERRED TO THE REPORTER OR NOT? YES
2. WHETHER IT NEEDS TO BE CIRCULATED TO OTHER BENCHES OF THE TRIBUNAL? ✓


(S.P. Biswas)

Member(A)

Cases referred:

1. Vincent Panikurlangara Vs. UOI (1987(2)SCC 1550.
2. Kirloskar Brothers Ltd. Vs. Employees State Insurance Corporation (1996(2) SCC 682.
3. Paschim Banga Khet Mazdoor Samity Vs. State of West Bengal (1996(4) SCC 36.
4. Maryam Singh Vs. State of Punjab Vol. 114, 1996(4)SLR 177.
5. National Institute of Mental Health and Neuro Sciences Vs. K Kalyana Raman (Dr.) 1992 Supp. (2) SCC 481.
6. State of Punjab & Ors. Vs. Mohinder Singh Chawla 1997(2) SCC 83.
7. S.R. Pall Vs. State of Punjab 1994(1) SLR 283 (P&H).
8. Surjit Singh Vs. State of Punjab & Ors. 1996(2)SC 336.
9. A.S. Gill Vs. H.P. & Ors. 1998(37) ATC 537.
10. Central Co-operative Consumers Store Ltd. Vs. Labour Court, H.P. Simla and Ors. 1993(3) SCC 214.

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

OA-1289/97

¶ New Delhi this the 30th day of June, 1998.

(9)

Hon'ble Sh. S.P. Biswas, Member (A)

Sh. G.R. Arya,
S/o Sh. Kishan Chand,
R/o J-241 Saket,
New Delhi-17. Applicant

(through Dr. D.C. Vohra, advocate)

versus

1. State of Delhi
(Govt. of the National Capital Territory of Delhi)
through the Principal Secretary,
(Health, 5, Shambhu Nath Marg,
Delhi-54).
2. Directorate of Health Services,
Govt. of the NCT of Delhi,
E-Block, Saraswati Bhawan,
Connaught Place,
New Delhi-1.
3. Medical Supdt.
(Nursing Homes)
Directorate of Health Services,
Govt. of the NCT of Delhi,
E-Block Saraswati Bhawan,
Connaught Place,
New Delhi-1.
4. Directorate of Training &
Technical Education,
C-Block, Vikas Bhawan,
Indraprastha Estate,
New Delhi-2. Respondents

(through Sh. S.K. Gupta for Sh. B.S. Gupta, advocate)

ORDER

The applicant, a retired Survey Instructor with Pusa Polytechnic Delhi, challenges A-1 and A-32 orders dated 28.6.96 and 19.11.96 issued by respondents No. 4 & 3 respectively. By A-1, sanction of Rs. 30,500/- only for reimbursement on medical expenditure incurred on

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implantation of temporary pace maker and subsequent follow up treatments in the Escorts Heart Institute and

Research Centre (EHIRC for short) Delhi has been conveyed against Applicant's total claim of Rs. 1,44,720/-. And by A-32, applicant's appeal for re-examination of the aforesaid claim and payment of residual due amounts regarding the expenditure so incurred has been rejected.

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2. The applicant is said to have suffered a serious chest pain attack on 7.8.95 while in service and was taken in emergency to EHIRC, a private hospital located nearer his house at Saket. Immediately after his admission in an emergent situation, it was found that the applicant had problems of Syncope, severe Bradycardia, Chest Pain and Mobitz 11 - (ii) A.B. Block requiring urgent Pace Maker and Coronary Angiography. He was discharged on 16.8.95. The expenses incurred for the treatment covering the ailments aforementioned came to Rs. 1,44,720/-. Accordingly, the applicant submitted his medical bills supported by documents/vouchers, on 19.9.95 to Respondent No.2 through proper channel. Alongwith the bill, a note was enclosed explaining the circumstances as to why it was not possible to obtain prior permission for resorting to the nature of treatment undertaken.

3. Vide Annexure-23A dated 28.6.96, the respondents have sanctioned Rs. 30,500/- on account of Cardiac Catherization and Coronary Arteriography. This payment is apparently based on details of first three days' treatment as indicated by EHIRC vide Annexure 21

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dated 25.5.96. Respondents have refused to sanction the remaining portion of the expenses incurred on grounds of the following:-

(1)

(a) Applicant's E.C.G. at the time of his admission in EHIRC did not reveal any abnormality except the A.V. Block for which the Angiography was done on the same day. With this, the emergency element of the patient's condition was over and he should have moved out to a recognised Government Hospital/Institute for permanent pacing subsequently for the purpose of reimbursements under CS(MA) Rules 1944. In fact, Respondent No.3 did not agree with the contention of EHIRC authorities that the patient could not be transferred while on temporary pace maker.

(b) The patient entered into a package deal and got permanent pace maker implanted at EHIRC. Annexure "C" dated 29.1.96 issued by Respondent No.3 refers.

(c) EHIRC is a recognised hospital for Coronary Bye-Pass Surgery only on the advise of authorised Medical Attendant. The implantation of Pace Maker does not involve the same procedure as Coronary Bye-Pass Surgery. "Escorts Heart Institute is not a recognised hospital for implantation of heart pace maker."

4. In support of applicant's claim, Dr. D.C. Vohra, learned counsel submitted that under orders of the Ministry of Health vide O.M. No. 14025/67/84-MS dated 24.10.86, powers for allowing reimbursement of the cost of such expenditures have been delegated to the

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administrative departments. The relevant portion of the Government's order as quoted from Swamy's-Medical Attendance Rules is reproduced below:-

(2)

Chapter - Medical Attendance Rules

"(6) Reimbursement of cost of various artificial appliances - Reimbursement of the cost of various artificial appliances including the cost of Heart Pace Maker and replacement of the pulse generator, cost replacement of diseased Heart Valves, Artificial Electronic Larynx, Artificial Hearing Aid is already within the purview of the delegated powers except in the case of initial supply for which the approval of CGHS is necessary. It has now been decided in supersession of all previous orders on the subject, that these powers be delegated to the Administrative Ministries/Departments even in cases of initial supply, once the instrument/equipment is prescribed by the specialist in a Government/recognised hospital."

5. To buttress his arguments further, the counsel for the applicant would submit that once an approved/recognised hospital has given the essentiality certificate, the medical expenses have to be reimbursed fully even when procedures laid down in rules have not been followed/ could not be followed because of emergency. GOI orders in O.M. No. S14012/9/75-MC(MS) dated 18.6.82, would cover the aforesaid claim, the counsel contended.

6. Thus, the only thing this Tribunal is required to see is whether respondents' refusal to reimbursement is arbitrary, violative of any law/principles/administrative orders. Of course, it has to

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stand the test of reasonableness and not to erode or curtail any of the Constitutional or Statutory right of the employee.

(3)

Before examining the legality of objections raised by the respondents, I consider it apposite to mention a few very important principles/ Judicial Pronouncements indicated by Hon'ble Supreme Court covering several connected issues on the subject of "Medical Reimbursement".

7. The Apex Court has held that Article 21 of the Constitution of India provides one of the most sacred fundamental rights given to its citizen. Since right to life is protected under this Article, refusal to pay the amount spent to save one's life amounts to the curtailment of such right, hence violative of Article 21. The Apex Court in its earlier decisions. in Vincent Panikurlangara Vs. U.O.I., (1987) 2 SCC 1650 has held that the right to live does not mean mere survival of animal existence but includes the right to live with human dignity. In other words, man's life should be meaningful, worth living. Fith and substance of life is the health, which is the nucleus of all activities of life including that of an employee or other viz. the physical, social, spiritual or any conceivable human activities. If this is denied, it is said everything crumbles.

8. In Vincent Panikurlangara's case (supra),

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their Lordships further held that:-

(A)

"Para 16-In a series of pronouncements during the recent years this Court has called out from the provisions of Part IV of the Constitution these several obligations of the State and called upon it to effectuate them in order that the resultant pictured by the Constitution Fathers may become a reality. As pointed out by us, maintenance and improvement of public health have to rank high as these are indispensable to the very physical existence of the community and on the betterment of these depends the building of the society of which the Constitution makers envisaged. Attending to public health, in our opinion, therefore, is of high priority-perhaps the one at the top."

9. In Kirloskar Brothers Ltd. Vs. Employees

State Insurance Corporation, 1996(2) SCC 682:-

"Para 9 - The Constitution envisages the establishment of a welfare State at the federal level as well as at the State level. In a Welfare State the primary duty of the Government is to secure the welfare of the people. Providing adequate medical facilities for the people is an essential part of the obligations undertaken by the Government in a welfare State. The Government discharges this obligation by running hospitals and health centres which provide medical care to the person seeking to avail of those facilities. Article 21 imposes an obligation on the State to safeguard the right to life of every person. Preservation of human life is thus of paramount importance.",

10. In Paschim Banga Khet Mazdoor Samity Vs.

State of West Bengal, 1996(4) SCC 36:-

"Para 16 - It is no doubt true that financial resources are needed for providing these facilities. But at the same time it cannot be ignored that it is the constitutional obligation of the State to provide adequate medical services to the

people. Whatever is necessary for this purpose has to be done. In the context of the constitutional obligation to provide free legal aid to a poor accused this Court has held that the State cannot avoid its constitutional obligation in that regard on account of financial constraints. The said observation would apply with equal, if not greater, force in the manner of discharge of constitutional obligation of the State has to be kept in view." (5)

11. In a recent case in Waryam Singh Vs. State of Punjab, Vol. 114, 1996(4) SLR P.177 decided on 12.4.96, the Division Bench of the Punjab & Haryana High Court held the following:-

"It is the duty of the State to provide adequate assistance to the people in cases of sickness. Various finer aspects of live would be rendered meaningless if one cannot get adequate medical attention. In fact, providing of medical assistance to sick and disabled is an integral part of the obligations of the State to improve public health. Therefore, every provision made by the State legislature or executive for providing medical assistance will be deemed to have their source in Articles 21, 41 and 47 of the Constitution and in appropriate case the citizen will be entitled to enforce such provisions and it will be no answer to such a claim that the provisions of Articles 41 and 47 are not enforceable by virtue of Article 37."

In this case, the Hon'ble High Court referred to as many as 38 case laws adjudicated on the subject of "Medical Reimbursement" at the forum of High Courts all over India and Supreme Court Court between 1950 to 1996 and came to a conclusion that:-

"In our considered opinion, there is no reason or justification for the Government to withhold the reimbursement actually incurred by the petitioners in the recognised hospital. Having recognised the private institute and hospitals for treatment, the Government has no legal justification to say that the expenses would be limited to the rates prescribed by the All India Institute of Medical

Sciences. This back tracking by the Government from its own policy of recognising the private hospitals and institutes for treatment of its employees is wholly unjustified." (b)

12. In the said case, the Hon'ble High Court had also decided 6 individual CWP's pending before it. Out of 6, petitioners in as many as 4 CWP's, all belonging to Punjab, had taken heart treatment at different points of time at EHIRC, New Delhi. The amount claimed varied from 1,33000/- to 1,66,000/- (round figures). For the detailed reasons recorded as aforesaid, the State Government was directed to make payments within a period of 3 months.

13. The applicant's case is covered by CS(MA) Rules 1944 as also applicable to CGHS beneficiaries. The portion of the rules, relevant for disposal of this O.A., is reproduced as under:-

"Sub-rule (15) of Rule 8 of the CS(MA) Rules lays down that the approval of the Government is conveyed for reimbursement of medical expenses under the Central Services (Medical Attendance) Rules, 1944, for specialized treatments like heart, kidney, coronary, etc., at par with CGHS beneficiaries as only in these cases a package deal arrangement with private hospitals for CGHS beneficiaries exist as present.

The aforesaid rule position has been inserted below Rule 8 on 31.10.1994.

Rule 8 provides as under:

8. (i) Charges for services rendered in connection with but not included in medical attendance on, or treatment of, a patient entitled, free of charge, to medical attendance or treatment under these Rules, shall be determined by the authorised medical attendant and paid by the patient.

(2) If any question arises as to whether any service is included in medical attendance or treatment it shall be referred to to the Government and the decision of the Government shall be final." (1)

14. I shall now proceed to examine the objections raised by the respondents as mentioned in para 3.(a), (b), & (c) hereinabove.

One of the grounds raised by the respondents include that the applicant should have got himself transferred to a recognised Government hospital for permanent pacing once the emergency condition of his ailment was over. In Government of India's orders at G.I., Dept. of Telecom. Lr.No. 46-190/89-PAT, dated 25.9.89 (Appendix-8 reimbursement in relaxation of rules in emergent cases), it has been stipulated that "the patient while he is in a private hospital should act according to the advice of hospital authorities. He should get him discharged from the hospital only when the hospital authorities discharge him." The Government of India issued this order while considering the point whether a patient can be transferred from private hospital to a Government/recognised hospital after the emergency is over for obtaining further treatment. In the light of the aforesaid orders of the Government, the respondents plea that the applicant should have come out of EHIRC falls on the ground because of A-7 certificate.

15. The next objection raised by the respondents relates to the applicant having entered into a package deal and by which he got permanent pace maker implanted in EHIRC. The objection is not against the

requirement of permanent pace maker by the applicant. It is, on the contrary, against the applicant having influenced the EHIRC authorities to implant the pace maker. The essentiality certificate issued by the authorities of EHIRC is reproduced below:-

15A.

"Escorts
Heart Institute
And
Research Centre

DR. RAVI A KASLIWAL
M.D., D.M., F.I.M.S.A
SENIOR CONSULTANT CARDIOLOGIST

August 9, 1995

This is to certify that Mr. G.R. Arya, 58 yrs old gentleman was admitted here in emergency on 7.8.95 with near syncope and severe bradycardia (admission pulse rate 38 BPM). He was immediately taken up for temporary cardiac pacing. He needs urgent permanent pacemaker implantation and coronary angiography (Emphasis added).

sd/-

Dr. RAVI R. KASLIWAL MD DM FINSA
SENIOR CONSULTANT CARDIOLOGIST

15B. The respondents, particularly respondent No.3, presumes a suspicious deal between the applicant and the EHIRC in implanting the permanent pace maker. The allegation, however, has not been substantiated by any reliable evidence/document. When the expert body has considered the need for a pace maker as a life saving device, it does not lie in the mouth of the respondents to consider the action of the EHIRC as one having been engineered by the applicant. No Government employee, unless he/she has taken leave of common sense, will put in something in the heart unless considered unavoidable. Besides that, those who have treated the applicant are considered to be specialists in the area of heart diseases. They are men of high status and also unquestionable impartiality. The Court/Tribunals are to go slow to interfere with such expert views. If any authority is needed for this proposition, it is available

in the case of National Institute of Mental Health and Neuro Sciences Vs. K. Kalyana Raman (Dr), 1992 Supp (2) SCC 481.

(19)

15C. I find A-7 essentiality certificate dated 9.8.95 has been followed by a certificate of Medical Superintendent dated 16.9.95 which mentions the following:-

"Escorts Heart Institute And Research Centre Okhla Road New Delhi - 110 025 (India)

COUNTERSIGNED

"I certify that the patient has been under treatment of Dr. A.K. Omar, Consultant Cardiologist and that the facilities provided were minimum which were essential for the patient's treatment.
(Emphasis added)

Date 16.9.95 Medical Superintendent

Place N. Delhi

NB: Certificate not applicable should be struck off certificate(b) is compulsory and must be filled in by Medical Officer in all cases.

I certify that the ESCORTS HEART INSTITUTE & RESEARCH CENTRE OKHLA N.D. is recognised by the authorities of Govt. National Capital Territory of Delhi for the treatment of NCT employees and their families.

sd/-
Medical Superintendent"

In view of the above details, respondents' stand in Annexure "C" cannot be legally sustained.

16. The third objection taken by the respondents has in it two elements. Firstly, the Coronary Bye-Pass Surgery should have been undertaken only on prior advise of the authorised Medical Attendant.

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In answer to this, it may be mentioned that when the State itself has brought Escorts on the recognised list, it is futile for the respondents to contend that the applicant could in no event have gone to the Escorts without prior consultations. That apart, some of the severe diseases do not knock at the door or give warning bells in advance. Emergency cases require immediate treatment and if with a view to comply with the procedure, one has to wait then it could be really fatal. One may not in such cases live, if such a procedure is to be strictly followed. It would appear that keeping this in view the Government of India has modified its earlier stand by including EHIRC/New Delhi, Batra Hospital & Medical Research Centre, Tughlakabad and National Heart Institute and Research Centre, 49 Community Centre (East of Kailash/New Delhi) as designated hospitals for the treatment of heart diseases. It is also evident that listing of the aforesaid designated hospitals was done with the approval of the Finance Department. Once the applicant was suffering from a chest pain, he could not be expected to consult the authorised Medical Attendant in Government hospital and sit at his home or wait for the permission of the Government to seek treatment in a recognised hospital lest that would cause danger to his life and in many cases it could even cause death. In such a situation, it was quite justified for the applicant to take treatment in the recognised hospital at EHIRC and save his life. This particular plea of respondents losses its strength in the light of the orders of Government of India vide its O.M. No.12015/93/CGHS dated 27.1.92 wherein it has been mentioned that "the choice of the recognised hospital

where the CGHS beneficiary would like to avail of the treatment is left to the beneficiary himself subject to the condition that no travel expenses will be reimbursable." The fact that EHIRC is a recognised hospital (as per GOI orders dated 16.1.95) is not indisputable. (2)

17. The other limb of the last objection relates to averment that EHIRC is not a recognised hospital for implantation of Heart Pace Maker. Such an objection has to be taken very seriously. If it is not recognised and yet has undertaken the work pertaining to placement of the permanent pace maker in disregard of rules, the respondents could have taken up EHIRC for punitive actions. I find the respondents have not questioned the need for permanent pace maker by the applicant. Nor have the respondents declined that the applicant has not made the necessary payments. Respondents have not also initiated any action against EHIRC for doing something unauthorisely. By an order No. S.14025/67/84 MS dated 24.10.86, reimbursement of the cost of various artificial appliances including that of Heart Pace Maker etc. has been allowed even by delegating powers. By yet another earlier order No. S14025/58/75--MC dated 18.8.78, reimbursement for such items have been permitted "only when these are certified as essential by a specialist in the concerned speciality in the hospital". As reiterated by GOI order No. F2714/91 M&PH dated 16.1.95 EHIRC is a "recognised private hospital" and by A-7 certificate dated 9.8.95 issued by a specialist in the concerned speciality, the need for Permanent Pace Maker has been certified. In the (2)

background of such a clear cut position, respondents plea that EHIRC is not a recognised hospital for Heart Pace Maker" has no legs to stand. This issue is now well settled. In the judgement of the Apex Court in the case of State of Punjab & Ors. Vs. Mohinder Singh Chawla (1997(2) SCC 83) it has been mentioned that "for open heart surgery or heart disease, the EHIRC is an authorised and recognised institution by the Govt. of Punjab." (para 11 of the order). None of the circulars/notifications appearing on the subject mention that EHIRC is not authorised for the purpose of placement of Heart Pace Maker. Respondents have not mentioned where could the applicant go for that treatment. Surely, respondents would not have objected if the applicant had gone to AIIMS for permanent Pace Maker. If that be so, reimbursement at ^{rate} AIIM's/ could not be denied. This was done in the case of S.R. Pall Vs. State of Punjab, (1994) 1 SLR 283(P&H). There are instances where reimbursement has been allowed at Escort's rate even when the treatment had taken place at London. Please see para 12 in the judgement of Surjit Singh Vs. State of Punjab & Ors. (1996(2)SC 336).

18. In the case of Surjit Singh (supra), the medical reimbursement claim of the applicant therein was examined and was held as admissible at the rate admissible in EHIRC. In that case the denial of such rate was rejected. The Apex Court examined the medical reimbursement claims of the applicant in that case and

held as under:-

"Para 9- The policy, providing recognition for treatment of open heart surgery in the Escorts, specifically came to be examined by a Division Bench of the Punjab and Haryana High Court at Chandigarh titled as Sadhu R. Pall Vs. State of Punjab. (1994) 1 SLR 283(P&H), wherein the claim of the then writ petitioner to medical reimbursement was accepted when in order to save his life he had got himself operated upon in the Escorts, and the plea of the State that he could be paid rates as prevalent in the AIIMS was rejected. Special Leave Petition No. 22024 of 1995 against the said decision was dismissed by this Court on 2.2.1994."

"Para 12 - The appellant therefore had the right to take steps in self-preservation. He did not have to stand in queue before the Medical Board, the manning and assembling of which, barefacedly, makes its meetings difficult to happen. The appellant also did not have to stand in queue in the government hospital of AIIMS and could go elsewhere to an alternative hospital as per policy."

19. In the case of Mahender Singh (supra), the Apex Court went a step ahead and contended that since the patient was admitted, had taken treatments in the EHIRC and had incurred the expenditure towards room charges, inevitably the consequential rent paid for the room during his stay is an integral part of the expenditure incurred for the purpose of treatment. Consequently, the Government was ordered to re-imburse the expenditure incurred for the period during which the patient stayed in the approved hospital for treatment. Para 11 of the order refers.

20. It eludes comprehension as to how the respondents could deny the entire claim on Heart Pace Maker account in the face of two orders in OM 12015/2/92 CGHS(P) dated 14.10.92 (Annexure J1) and No. 12016/3/91-CGHS(P) dated 20.7.94 (Annexure J2)

respectively. J1 provides a ceiling towards the cost of Heart Pace Maker of CGHS beneficiaries. Whereas J2 provides liberalised rates for coronary bye-pass surgery subject to the condition that "the rate for CABG, Coronary Angiography and other investigations will be regulated on package deal basis". In fact, there is no need for the applicant to pay even anything extra, over and above the ceiling since he is entitled to free medical treatment which he has taken from only an authorised hospital. This has been so decided by Chandigarh Bench of this Tribunal in A.S. Gill Vs. H.P. & Ors. (1998)37 ATC cases 537).

(2A)

All the above orders/instructions are besides the specific order in OM No. S14025/4/90-MS dated 26.7.1990. This order mentions that:-

"only such cases which require clarification of doubts on specific points or need special sanction in relaxation of rules should be referred to this Ministry and only through Directorate General alongwith the comments/recommendation of the concerned Ministry/Department at the level/approval of an officer not below the rank of Joint Secretary."

Respondents have recorded no reasons as to why they did not consider it necessary to take advantage of the provision/facilities in this order.

21. I find yet another infirmity in the processing of the case. As in Appendix VIII of Swamy's Compilation of MA Rules, it is only the Head of the Department (HOD for short) and Ministers who have been delegated more financial powers. As is evident in A1, A-32 & Annexure(C), Director, Training & Tech.

(2B)

own responsibility for the indifference and delays in this regard. I am, therefore, inclined to direct Respondent No.1, Principal Secretary (Health) Government of NCT to issue necessary instructions to all _____

Education (Respondent No.4) has decided the case claiming to be the head of the department. As per memo reproduced in Annexure to Appendix VIII, the HOD means the Head of the Department concerned, i.e., the Principal Secretary, Health (Respondent No.1) of the Govt. of NCT/Delhi. Respondent No.3 is only the head of Training and Tech. Education Directorate and is by no stretch of imagination the HOD who could of his own reject the claim without consulting the competent authority. Respondent No.1 should have been consulted in the matter before issuing A-1 and A-32.

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22. Before I part with the case, I am constrained to point out that it is highly unfair that the applicant had to approach this Court by filing this O.A. to get reimbursement on medical expenses incurred on the treatment of his ailments. He had sent fairly a large number of representations and the respondents decided to turn Nelson's eye on them. I have also noticed that quite often OAs have been filed to obtain reliefs in the matter of medical reimbursements particularly by those who have either retired from services of NCT or by heirs of the diseased NCT officials. This is a sad commentary indeed on the working style of the concerned departments and particularly of the heads of those departments who must own responsibility for the indifference and delays in this regard. I am, therefore, inclined to direct Respondent No.1, Principal Secretary (Health) Government of NCT to issue necessary instructions to all the Departments including the Finance directing them that such bills received in future shall be disposed of

(25)

expeditiously but not later than 3 months from the date of receipt of such bills by the concerned departments, either from serving or retired NCT officials.

(26)

23. Because of the detailed reasons aforementioned, respondents' orders at A-1 and A-32 are arbitrary and without any application of mind. They deserve to be set aside and I do so accordingly.

24. In the result, the O.A. is allowed with the following directions:-

- (a) The applicant shall be paid residual amount of claims due to him within a period of 3 months from the date of receipt of a certified copy of this order.
- (b) In case the respondents fail to do so, an interest of 12% shall be paid on the entire amount due from the date of filing of this O.A. till the date due amount is paid to the applicant.
- (c) This is eminently a fit case to order costs in the light of law enunciated by the Hon'ble Supreme Court in Central Co-operative Consumers Store Ltd. Vs. Labour Court, H.P. Simla and Ors., 1993(3) SCC 214 wherein legally valid claims were denied because of unreasonable attitude of

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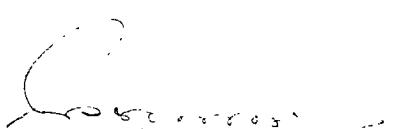
the respondents. The same situation prevails here. Accordingly, I direct respondents to pay Rs.3000 (Rs. three thousand only) as costs to the applicant who has been forced to resort to avoidable litigation.

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(d) Respondent No.1 will be at liberty to recover this amount from the pockets of those responsible functionaries as the Public Exchequer cannot be burdened for lapses of erring officers/officials.

(e) Necessary orders, based on details in para 22 above, shall be issued by respondent No.1 within a period of six months from today.

Application is disposed of as aforesaid.


(S.P. Biswas)

Member (A)

/vv/