

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A.No.1473/97

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

New Delhi, this the 27 day of February, 1998

Shri B.S.Jain
s/o late Shri M.S.Jain
retired Deputy Director of Admn.
Director General
All India Radio
Parliament Street
New Delhi - 110 001.
r/o A2/174, Janak Puri
New Delhi - 58.

... Applicant

(Applicant in person)

Vs.

1. Union of India through
Secretary to the Govt. of India
Ministry of Health & Family Welfare
Department of Health
Nirman Bhawan
New Delhi - 110 003.

2. Director General
Directorate General of Health Services
Central Govt. Health Scheme(CGHS)
R & H Section, Nirman Bhawan
New Delhi - 110 003.

... Respondents

(By Shri M.K.Gupta, Advocate)

O R D E R

The applicant's grievance is that his medical reimbursement claim amounting to Rs.4,975 in respect of treatment of his mother in a private nursing hospital has been rejected by the respondents.

2. The facts of the case in brief are that the applicant is a retired Dy. Director of Administration, Directorate General of All India Radio, Akashwani Bhawan entitled to CGHS facility for himself and for his family including his mother who is dependent on him. On the night of 15.7.1996 she fell ill and considering her condition to be one of emergency the applicant took her to the nearest hospital which happened to be a private charitable hospital, i.e., Mata Chanan Devi Hospital (in short

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MCDH) at Janakpuri. Her condition was noted as that of moderately severe dehydration. After 48 hours in the emergency she was transferred to a semi paid ward as her son, the applicant, could not otherwise stay with her. The hospital raised a Bill of Rs.4,675 and another Rs.300/- were incurred on medicines. The applicant preferred a claim for a total amount of Rs.4,975/- but the same was rejected by the impugned letter dated 31.10.1996, Annexure-A1 on the following ground:

"Discharge summary indicates that it was a dehydration case. So the patient should have been taken to Govt. hospital."

3. It is aggrieved by this decision of the respondents that the applicant has come before this Tribunal.

4. The applicant argued the case in person. He submitted that his mother being a follower of Jain Religion, she did not take anything including medicine after sunset. He had discovered her in a critical condition, near the Bathroom, and in view of the religious vows of her mother realised that it was an emergency and immediately rushed her ^{for} treatment at MCDH, which is the nearest hospital to his residence, being only 400 yards away. The applicant's mother was immediately put on I.V. fluids and her condition stabilised only after 48 hours. In the circumstances, there was no time available to obtain a referral from the Authorised Medical Attendant (AMA), Deen Dayal Upadhaya Hospital (DDU Hospital), Harinagar the nearest Government hospital, is nearly 6 kms. from his residence and considering the acute condition of his mother he could not take risk of going to DDU Hospital. The applicant cited a number of judgements of Supreme Court as well as this Tribunal to support his case that in a matter of emergency, saving of the human life is the primary consideration and therefore the respondents cannot insist ^{that} the treatment must be obtained only in a Government hospital.

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5. The respondents in reply have stated that the Government has only limited financial sources at its disposal and therefore constrained to spend money largely on preventive rather than curative aspects. For the welfare of its employees government has set up dispensaries and hospitals and normally Government servants are to avail of such facilities unless they want to spend money from their own pocket for treatment in hospitals of their own choice. The respondents also stated that the case was duly examined and it was found that the condition of the applicant's mother was not so serious, that she could not have been taken to the DDU Hospital which is not at a very great distance from the applicant's house. They also referred to the Government instructions regarding treatment at non recognised private nursing homes to show that expenditure incurred for treatment therein is normally not reimbursable.

6. I have considered the matter carefully. It is quite possible that what may appear to a layman as an emergency may not be so in the eyes of a trained physician. The applicant's action in seeking help in the nearest hospital is understandable when one considering a situation in which the patient an aged lady is discovered lying collapsed outside the bathroom at four 'O' clock in the morning. I agree with the applicant that the nature of the emergency has to be viewed from the perception of the person at the spot, though necessarily subsequent diagnosis will indicate whether such a perception could be considered normal in the circumstances. In the present case the applicant's mother was admitted to the nursing home which is a charitable institution and recieved emergency treatment for 48 hours. Therefore the reaction of the applicant cannot be faulted in the circumstances.

On

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7. In another case OA No.2478/95 (R.S.Sharma Vs. Union of India & Others, decided on 13.3.1997), it was observed by this Tribunal that even if the patient had been taken into the government hospital the Government would have to bear certain expenditure and on that basis the OA was allowed to the extent that respondents were directed to reimburse the charges as could have been incurred in a Government hospital. In the present case the applicant has submitted that even if he had taken his mother to DDU Hospital or Ram Manohar Lohia Hospital, the bill would have ^{been} as much ~~or~~ even more than but not less than that of a ~~charitable~~ institution, such as the MDCH. In the circumstances he should have no grievance, if on the analogy of R.S.Sharma (Supra) this OA is also disposed of with a direction to reimburse the charges to the extent the charges would have been levied in a Govt. Hospital.

8. Accordingly, in the light of the above discussion, this OA is disposed of with a direction to the respondents that the expenses on treatment of the applicant's mother be reimbursed to the extent of charges that would have been incurred on 5 days stay and treatment in a nursing home of Govt. ~~hospital~~ ^{DDU} Hospital or Ram Manohar Lohia Hospital. The same should be done within a period of one month from the date of receipt of a copy of this order.

The OA is disposed of as above. There shall be no order as to costs.

R.K. ABOOJA
(R.K. ABOOJA)
MEMBER (A)

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