

Central Administrative Tribunal
Principal Bench

O.A.No.2015/97

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

New Delhi, this the 28th day of February, 1999

Smt. Pushpa Devi
w/o late Shri Indrajeet Sharma
r/o H.No.407, Gali No.8
Durgapuri Extn.
Delhi - 110 093.

... Applicant

(By Shri K.P.Dohare, Advocate)

Vs.

Govt. of NCT of Delhi through

1. Chief Secretary
Govt. of N.C.T. of Delhi
Shamnath Marg
Delhi - 110 054.
2. Secretary (Services)
Govt. of NCT of Delhi
5, Shamnath Marg
Delhi - 110 054.
3. Director of Education
Govt. of NCT of Delhi
Old Secretariat
Delhi - 110 054.

... Respondents

(By Shri Raj Singh, Advocate)

ORDER

The applicant is the widow of late Shri Indrajeet Sharma, who was employed as TGT in the Education Department of Delhi Administration and died in harness on 19.9.1996. The applicant submits that her husband had been suffering from various ailments and on that account he had taken treatment in AIIMS, New Delhi and Post Graduate Institute of Medical Education Research, Chandigarh (hereinafter called as AIIMS and PGIMER) for kidney failure and for kidney transplantation during the year 1993-94. On that account he had preferred claims for Rs.1,83,148 as medical reimbursement. However the same were rejected on the technical ground that these were submitted after a period of three months from the date of

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treatment and also because the applicant had not obtained a referral to AIIMS and PGIMER. The husband of the applicant is stated to have filed a representation against the rejection but by the respondents' letter dated 26.12.1995, Annexure-A2 the earlier decision of rejection of the claim was reiterated. The applicant submits that her husband had to borrow money for his treatment from relatives which she is obliged to return. On that ground she seeks a direction to the respondents to pay the reimbursement bill along with the interest amounting to Rs.30,000/-.

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2. The OA is also accompanied with a Miscellaneous Application for condonation of delay. The respondents in the reply have reiterated their original objections, laying emphasis on the point that the husband of the applicant had not obtained a referral from an Authorised Medical Attendant before seeking treatment at AIIMS and PGIMER.

3. I have heard the counsel. In so far as the delay is concerned, no reply has been filed by the respondents to the application for condonation of delay. Even otherwise, the grounds stated for the delay are acceptable. The applicant's husband was obviously ailing through out the years 1993-94. His representation was rejected only on 22.12.1995 and he died on 19.9.1996. Thereafter the applicant took up the matter with the respondents and a legal notice was also served before filing the present OA on 29.8.1997. In these circumstances, MA for condonation of delay is allowed.

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4. Both AIIMS and PGIMER are admittedly referral hospitals where Government servants can obtain treatment. It may be that the applicant had not obtained a referral from an Authorised Medical Attendant. In case of emergency, this may not always be possible. In the facts and circumstances in which the treatment was obtained it would have been appropriate for the respondents to refer the matter for the advice of the Competent Medical Authority, i.e., Directorate of Health Services, Government of Delhi or Director General of Health Services, GOI to give an opinion on firstly whether the treatment obtained by the applicant's husband in the two referral institutions could be recognised as emergency treatment and secondly whether a referral in the normal course would have been made considering the nature of the ailment. If the reply to either of these two questions had been in the affirmative, the applicant's husband would have been entitled for reimbursement as per Rules. This was however not done and the claim was rejected at the level of the Accounts Officer only on the ground that certain procedural shortcomings came to their notice.

5. The learned counsel for the respondents submits that there is no succession certificate in favour of the applicant and there is a misjoinder of the parties as other claimants, namely, sons and daughters have not been impleaded by the applicant. I find that the applicant has enclosed an affidavit on behalf of her sons and daughters. In any case, this is not a matter which need to be gone into in the present proceedings.

6. In the facts and circumstances of the case, I dispose of this OA with the following directions:

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- 1) The respondents will forward and obtain the advice of the Competent Medical Authority regarding (a) whether the treatment was of an emergency nature and (b) whether in the nature of the ailment and treatment a referral to AIIMS and PGIMER would have been justified. This will be done within a period of three months from the date of receipt of a copy of this order.
 - 2) In case the advice of Competent Medical Authority is ~~with~~ affirmative to either of the two points the reimbursement claim ~~is to~~ be processed for sanction as per Rules. This will be done within a period of two months thereafter.
 - 3) The respondents may ascertain the eligibility of applicant to receive the reimbursement claim and make the payment accordingly within a period of one month thereafter.
 - 4) In any case all the above directions should be completed within six months from the date of receipt of a copy of this order.

The OA is disposed of as above. No costs.


(R.K. Ahooja)
Member(A)

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