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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH
NEW DELHI

O.A. No. 934 of 1997 decided on 7.2.1998.

Name of Applicant Ch. Balbir Singh Mainra

By Advocate : Anbrosen

Versus

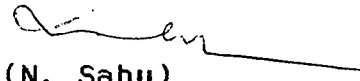
Name of respondent/s Union of India.

By Advocate : Shri _____

Corum:

Hon'ble Mr. N. Sahu, Member (Admnv).

1. To be referred to the reporter. - Yes/No
2. Whether to be circulated to the other Benches of the Tribunal. - Yes/No


(N. Sahu)
Member (Admnv)

(10)

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

Original Application No.934 of 1997

New Delhi, this the 9th day of February, 1998

Hon'ble Mr. N. Sahu, Member (Admnv)

Shri Balbir Singh Mainee, Ex. Senior
Commercial Officer (Claims), Northern
Railway Hdqtrs Office, Baroda House,
New Delhi. At present : Resident of :
240, Jagriti Enclave, (Vikas Marg
Extn.), Delhi - 110 092

-APPLICANT

Versus

Union of India through :

1. The Secretary, Ministry of Railways,
(Railway Board), Rail Bhavan, Raisina
Road, Rafi Marg, New Delhi - 110 001.

2. The General Manager, Northern Railway,
Baroda House, New Delhi - 110 001

3. The Chief Medical Director, Northern
Railway Headqtrs Office, Baroda
House, New Delhi - 110 001

- RESPONDENTS

O R D E R

By Mr. N. Sahu, Member (Admnv) -

The applicant is aggrieved by an order no.
494-E/436/Med.Reimb./EIA dated 18.3.1997 passed by
respondent no.2 restricting reimbursement of an
amount of Rs.26,950/- only against the claim
preferred by the applicant for a sum of
Rs.1,02,036/-.

2. The admitted facts are that the applicant
as a retired employee was entitled to medical
treatment/reimbursement under the Retired Employees
Liberalised Health Scheme under which he is entitled
for reimbursement to the extent of 50% for medical
treatment at Government hospital/ Medical College,
when his case is referred to by the competent

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authority incharge of Zonal/Divisional hospitals. It is further clarified by the Railway Board's letter No. 88/H/28/3 dated 28.12.1988 that this reimbursement of 50% is only when the reference is to Government Hospital/Medical Colleges but not to non-recognised institutions. By a subsequent order of the Railway Board dated 12.9.1995, for major diseases like Cancer, Heart Surgery, and Renal failure, a ceiling limit of Rs.1 lakh for self and another Rs. 1 lakh for the spouses was provided.

3. The applicant took his treatment in a private non-recognised hospital Escort Heart Institute & Research Centre, New Delhi without being referred to by the Railway medical authorities. His claim, therefore, was limited to the extent of 50% for the cost of medical treatment for the same illness in a Government Hospital i.e. AIIMS, New Delhi, provided such cases are referred to a recognised specialised hospital/ Govt. Medical College Hospital with the recommendation of the Medical doctor/ Specialist of the zonal hospital and the approval of the CMO.

4. The applicant has brought to my notice a number of judicial pronouncements on the subject. The first decision cited by him is that of **Amar Nath Dhillon Vs. State of Punjab**, 1998 (1) ATJ (24) 35. The High Court in that case was dealing with the grievance of the petitioner in restricting his claim to Rs.82,000/- in the place of Rs.1,46,944/-. The Punjab High Court held that when a patient suffered

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from heart attack, risk of life is involved and under such circumstances it is not necessary to take prior sanction of the competent authority for treatment. The High Court relied on the leading case of the Hon'ble Supreme Court in **Surjit Singh Vs. State of Punjab and others**, JT 1996(2) SC 28 = AIR 1996 SC 1388. Their Lordships were examining the policy adopted by the State of Punjab on medical reimbursement. The Court held that an employee or retired employee is entitled to the actual expenses incurred by him for undergoing heart treatment in Escort at New Delhi.

5. In the case of Surjit Singh (supra) their Lordships were dealing with the case of the appellant who had to undergo an emergency heart operation while in London during his visit to his son residing there. His claim for reimbursement was rejected by the Government and he was partly successful before the Punjab High Court. Their Lordships held if the appellant remained in India he could have gone to the Escort like many others did to save his life and that it is fair and just that the respondents pay to the appellant the rates admissible as per Escort. In arriving at this decision, their Lordships held as under -

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"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, bare-facedly, 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 alternate hospital as per policy. When the State itself has brought the Escorts

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on the recognised list, it is futile for it to contend that the appellant could in no event have gone to the Escorts and his claim cannot on that basis be allowed, on suppositions."

6. A decision of this Court in the case of **Sri N.M.Rokde Vs. Union of India & another**, 1996(2) ATJ 16 dealt with the case of the applicant who suffered from heart disease and was referred to Appollo Hospital, Madras for expert treatment. By relying on the decision in the case of Surjit Singh (supra) this Court directed full payment of the claim and not restricting it on the ground that Appollo hospital is a private one. It was further held that expenses are fully reimbursable.

7. In the case of **Sharad Digamber Bakare Vs. Secretary, Min. of Defence and others**, (1996) 34 ATC 260 ex post facto sanction for reimbursement of medical charges was refused on the ground that prior approval was not obtained though there was a provision in the rules that such approval could be given if the Government is so satisfied. Full reimbursement of expenses was allowed including the expenses of an attendant.

8. In view of the above decisions the stand of the respondents is without merit. The admitted facts are that the applicant suffered from a heart attack on 7.6.1996 and was shifted to the nearest hospital - Shanti Mukand Hospital. The hospital authorities referred the matter to the Escort Hospital on the same day. In that specialized

Institute he was performed a coronary angiography and thereafter he was discharged. He paid a sum of Rs.98,470/- to the Escort Hospital and Rs.3,566/- to Shanti Mukand Hospital. Under the Liberalised instructions dated 8.9.1995 medical expenses incurred by retired employees under RELHS should be reimbursed fully for treatments in heart surgery, cancer and renal failure in a recognised hospital/ Government hospital and should be fully reimbursed upto a ceiling of Rs.1 lakh.

9. In view of the above instructions and in view of the fact that Escort Hospital being a recognised hospital the amount of Rs.98,470/- claimed by the applicant is fully reimbursable and the difference between this amount and the amount actually paid shall be remitted to the applicant within six weeks from the date of receipt of a copy of this order. The O.A. is accordingly allowed. No costs.

N. Sahu
(N. Sahu)
Member (Admnv) 9/2/98

rkv.