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Central Administrative Tribunal
Principal Bench, New Delhi.

O.A.No.1966/94

New Delhi this the 19th Day of May, 1995.

Hon'ble Sh. B.K. Singh, Member(A)

Shri D.P. Singh,
S/o late Sh. Sher Singh,
R/o W-129, Greater Kailash-I,
New Delhi-48.

Applicant

(through Sh. C. Hari Shankar, advocate)

versus

Union of India,
through the Secretary,
Ministry of Health and Family Welfare,
Nirman Bhawan,
New Delhi-1.

Respondent


(through Sh. N.S. Mehta, Sr.Standing counsel)

ORDER

delivered by Hon'ble Sh. B.K. Singh, Member(A)

This O.A.No.1966/94 is directed against rejection of the representation filed by the applicant to the Ministry of Health and Family Welfare dated 12/24.8.93. This is annexure-I of the paperbook.

The applicant is a retired I.A.S. officer covered under the CGHS medical benefits and his Card No. is P-423063 and this is marked as Annexure-2. The applicant is aggrieved that he is entitled to all the benefits under the O.M.No. S.11011/3/91-CGHS(P) dated September, 1991. The respondents have denied the benefits by rejecting his representation. A copy of the O.M. also has been enclosed with the O.A. as Annexure-3. While on visit to U.S.A. the applicant suffered two consecutive heart attacks on 19.6.92 and 27.6.92 at Peoria, Illinois, and open-heart surgery had to be carried out as an emergency measure to save his life at the Illinois Heart Institute. He claims



that the order No.S-14012/9/75-MC dated 23.2.1977 of the Ministry of Health and Family Welfare permits a patient to be hospitalized in case of emergency anywhere in the country or abroad and a copy of the said O.M. is enclosed as Annexure-4. The hospital bills came to \$74890.21 and the R.B.I. gave ex facto permission for foreign exchange release and the applicant had to sell part of his family house to remit this amount.

The reliefs prayed for are:-

"(i) direct that the sum of \$74890.21, which has been incurred by the applicant in the USA in the course of medical treatment, be reimbursed to him, as the equivalent amount of Indian Rupees;

(ii) in the alternative, that at least a sum of Rs.5 lakhs be granted, being the estimated cost of similar treatment in India;

(iii) direct grant of costs of this application.

A notice was issued to the respondents who filed their reply contesting the application and grant of reliefs prayed for.

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I heard the learned counsel Sh. C. Hari Shankar for the applicant and Sh. N.S. Mehta for the respondents.

The learned counsel for the applicant argued that as a retired pensioner the applicant had deposited 10 times of the yearly contribution to get the benefits for himself and his wife for the entire span of the remaining lease of life and his wife and self and that under the Scheme he is entitled to reimbursement of the amounts incurred by him in case of emergency when he had these two consecutive heart attacks in Illinois. However, the learned counsel did not press for reimbursement of the entire amount but was prepared to accept the amount which would have been admissible to him in case of emergency if he had been admitted in a private hospital in India without taking the sanction of the Ministry of Health or Director CGHS. The learned counsel has quoted circular issued by Additional Director (CGHS) Central Govt. Health Scheme Kendriya Sarkar Swasthaya Yojana Card & Programme Section Office Order No.4-1/87-C&D Section/CGHS/1035-1535 dated 22.1.1992 giving certain clarifications regarding reimbursement of the medical expenses incurred by a patient during emergency. He vehemently argued that the applicant is covered by the CGHS rules and he is also a beneficiary thereof because he holds a card for his whole life and as such he is entitled to reimbursement of medical expenses incurred by him on his treatment as per rules of the Ministry. He further argued that in view of the emergent situation in U.S.A. there was no question of

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the applicant applying in advance to Medical Authorities in India for treatment abroad and he had to be hospitalised to save his life and in this connection he has also enclosed the medical certificates collectively annexed as Annexure-7. Finally he agreed that even if he is not entitled to the expenditure incurred for treatment abroad amounting to \$74890.21, he should be reimbursed atleast the amount equal to the estimated cost of similar treatment in India at a recognised hospital such as AIIMS, Escorts Heart Institute, Baitra Hospital etc.

In response to the arguments advanced by the learned counsel for the applicant, the learned counsel for the respondents quoted the rules taken from C.G.H.S. Compilation regarding facilities to Central Government Pensioners, All India Service Pensioners/Delhi Police Pensioners retired judges of Supreme Court and High Court. Rule 17(2) of the said rules lays down that those who joined the Scheme shall be eligible to pay contribution at the rates indicated in sub-para(i) of para 14 with reference to their gross pensions in case of pensioners and with reference to half of their last pay drawn in case of those retiring with CP Fund benefits.

The learned counsel for the respondents argued that the benefit of the scheme to pensioners will be limited to arrears (emphasis on 'arrears') covered by the Scheme. The circular clearly stipulates that no reimbursement shall be made when

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pensioners and members of their families take medical treatment at a place not covered by the scheme unless specifically so authorised by the Ministry of Health. It is a well established practice of the Government that even a serving government servant cannot be permitted to go abroad for treatment until a Board presided over by the Director General Health Services with experts in the disease for which a person claims treatment outside the country clears the proposal. This Board has to clearly certify to the Ministry that there is no treatment of that disease in the country and for want of this facility he has to be sent abroad. Unless such a Board meets and authorises and the same is cleared by the Ministry of Health and Ministry of Expenditure even a government servant of whatever rank he may be including Cabinet Secretary cannot be sent abroad for treatment. This is the reason why sub-rule(3) of Rule 17 lays down that expenditure incurred by the pensioners in hospitals located in the areas covered by the Scheme alone would be reimbursible. Even in a place like Delhi for reference purposes Director CGHS has to refer a patient to AIIMS on the recommendation of the Medical Superintendent of the hospitals like Ram Manohar Lohia, Lok Nayak Jai Prakash and Govind Ballabh Pant Hospitals for treatment. Unless there is a recommendation from the Medical Superintendent to Director CGHS a person cannot be admitted even in AIIMS which is located in Delhi and if such an authorisation is not there, the expenditure will not be reimbursed. This being so, the question of someone going abroad without clearance by a Medical Board and



without the clearance of the Ministry of Health and Ministry of Finance, Department of Expenditure reimbursement of expenses incurred will be well nigh impossible. The very fact that the applicant was in Illinois is a clear proof that he must have had some relations there if he is a non-resident Indian he would have been fully insured and he would recover the expenses incurred by him from the Insurance Department. The status of the applicant has not been clarified whether he is a green card holder or he is a non resident Indian. In both the cases he would be insured. Secondly, if a person has a history of anginal problem and has received treatment for that one is not permitted by the country in which he is going without the latest medical report on the condition of the heart of that passenger and he is also required to fill up the insurance form after paying the requisite amount for the same so that if there is a heart attack enroute or in the ~~plane~~^{aircraft} or after landing in the country of destination the entire expenditure on his treatment should be reimbursed to him either by the Insurance Company in India or if he happens to be a green card holder, his expenditure would be reimbursed by the government of USA. Even in a similar case, the expenditure incurred by Sh. O.P. Kashtriya, a Standing Counsel practising here in the C.A.T. was not reimbursed by Director, CGHS on the ground that his case was not recommended by the Supdt. Ram Manohar Lohia Hospital which was the nearest hospital from the place of his residence and since he had not obtained the permission of Supdt.

and there was no authorisation of Director, CGHS in his case although he is also a retired government servant.

The rules quoted by the learned counsel for the respondents are clear and unambiguous and the expenditure incurred by the applicant on his treatment abroad cannot be reimbursed to him on the basis of the instructions and the rules. Accordingly, the application is dismissed as devoid of any merit or substance, leaving the parties to bear their own costs.



(B.K. Singh)

Member(A)

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