

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A.NO.1272/2000

Thursday, this the 10th day of May, 2001

Hon'ble Shri S.A.T. Rizvi, Member (A)

Shri K.P. Owdhbal
S/O Shri Mata Prasad
Ex. Horticulture Superintendent,
N.F. Railway,
Maligaon, Guwahati.

Presently residing at:
Flat No. A/171/2, Dilshad Colony,
Near Express Market,
Delhi - 95.

...Applicant.

(By Advocate: Shri B.S.Maine)

VERSUS

Union of India through

1. The Secretary,
Ministry of Railways,
(Railway Board),
Rail Bhavan, Raisina Road,
New Delhi-1.
2. The Executive Director (Health),
Ministry of Railways
(Railway Board),
Rail Bhavan, Raisina Road,
New Delhi-1.
3. The Chief Medical Director,
N.F. Railway,
Maligaon, Guwahati - 781 011.

..Respondents

(By Advocate: Shri R.P. Aggarwal)

O R D E R (ORAL)

Heard the learned counsel on either side and
perused the material placed on record.

2. The applicant's wife, while he himself was posted
at Guwahati, suffered a heart attack on 4.1.1998 and was
immediately taken to the nearest Govt. hospital, namely,
the Guru Tegh Bahadur Hospital, Shahdara, Delhi. Since a
heart bye-pass surgery was indicated and the
corresponding facilities were not available at the GTB

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Hospital, the applicant's wife was shifted the very next day, i.e., on 5.1.1998 to Indraprastha Apollo Hospital, Delhi where CAVG procedure was performed on her on 9.1.1998. The patient was finally discharged on 20.1.1998. The aforesaid hospital (Indraprastha Apollo Hospital) preferred a claim for Rs.2,22,835.75/- which was examined by the competent railway authorities who found Rs.1,99,162/- as admissible in the instant case. The relevant letter of the Chief Medical Director, Maligaon, Guwahati dated 23.11.1998 is placed at Annexure A-6. The condition of the patient and the circumstances in which she had to be operated upon have been indicated in the said letter, and after a proper examination of the claim, the Chief Medical Director had found the aforesaid amount of Rs.1,99,162/- as admissible. By the aforesaid letter, he has forwarded the aforesaid claim to the Railway Board for further necessary action. The Railway Board have restricted the claim to Rs.94,900/- by their impugned letter of 26.7.1999 (Annexure A-1). No reason has been assigned therein for scaling down the claim which as stated had been duly verified by the Chief Medical Director, though it is conceded in the same letter that the case of the applicant's wife was a special one and the conditions which existed at the material time were emergent conditions.

3. The learned counsel appearing for the respondents submits that being the final authority for according sanction in such cases, the Railway Board have correctly followed the rules and procedure and have sanctioned the claim limited to Rs.94,900/- and the same cannot be

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questioned. According to him, prior permission in accordance with the extant rules was an absolute necessity and the applicant having failed to obtain such permission, the respondents were free to limit the sanction in the manner they have done in the present case. The learned counsel has drawn my attention to the letter dated 3.3.1998 (Annexure A-10) placed on record which deals with the subject of recognition of Indraprastha Apollo Hospital, New Delhi. According to the said letter, the Indraprastha Apollo Hospital stood recognized for CAVG of railway patients for a further period from 4.3.1998 to 31.3.1999 subject to the existing terms and conditions stipulated in the respondents' letter of 4.3.1997. The learned counsel submits that the sanction of expenditure in such cases is required to be limited to the expenditure incurred if the same treatment is received at a reputed Govt. hospital, namely, AIIMS. According to him, the aforesaid letter of 4.3.1997 referred to in the letter of 3.3.1998 provides for such a limit and the same has to be applied in the present case. A copy of the same has not been placed on record, however, nor has the same been relied upon by the respondents in paragraphs 4 of their counter reply or elsewhere in the written pleadings.

4. The learned counsel appearing on behalf of the applicant disputes the imposition of limit in such cases by relying on Surjit Singh Vs. State of Punjab & Ors. decided by the Hon'ble Supreme Court on 31.1.1996 and reported in (1996) 2 SCC 336 and N.M. Rokde Vs. Union of India, reported as (1996) ATC 34 297. In the former

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case, an officer belonging to the State Govt. of Punjab had proceeded to UK where he took ill and had to be medically treated in that country. On return, the relevant authorities refused to re-imburse the expenses incurred by the said officer in UK. The Supreme Court, after carefully examining the issues, held that in such a case, the financial limit of expenditure could be pegged at the level of expenditure that would have been incurred had the officer been treated in an approved hospital in Delhi such as Escorts. Thus, the level of expenditure sanctified by the Supreme Court was the expenditure that would have been incurred had the officer been treated at Escorts, New Delhi, that hospital itself being on the panel of approved hospital adopted by the State Govt. of Punjab. In the latter case, a railway officer was required to be treated at Apollo, Madras under emergent conditions. The total expenditure claimed in that case was Rs.85,000/- approximately against which Rs.57,000/- approximately was sanctioned on the ground of existence of a financial ceiling in accordance with the prevailing instructions. The Tribunal overruled the imposition of ceiling and held that expenditure in excess of ceiling could be reimbursed in such cases. The learned counsel has next proceeded to bring to my notice the specific case again of a railway officer in which the entire medical expenditure was sanctioned/reimbursed without imposing any ceiling. I find that the aforesaid sanction, without imposition of ceiling, was issued as late as on 16.10.1998 (Annexure A-9).

5. If one has regard to ratio of the judgements rendered by the Supreme Court and the Tribunal in the



aforesaid cases and the specific precedent relating to a railway officer brought to my notice by the learned counsel for the applicant, a ceiling need not be imposed in such a case if the hospital happens to be on the panel of approved hospitals. The Indraprastha Apollo Hospital is admittedly an approved hospital and, therefore, the expenditure incurred to the extent found admissible should be reimbursed in full.

6. The learned counsel for the respondents placing reliance on State of Punjab & Ors. Vs. R.N. Bagga decided by the Supreme Court on 26.2.1998 and reported in (1998) 4 SCC 117 will not assist the respondents inasmuch as that particular case related to an officer of the State of Punjab and the Govt. of that State had prescribed financial limits for reimbursement of expenditure in such cases whereas no such limit is strictly speaking envisaged under the Railways as the precedent relied upon by the applicant clearly shows. This is despite the fact that the judgement rendered by the Supreme Court in Surjit Singh's case (supra) was noticed in that case. The railways have not, according to the learned counsel for the applicant, imposed any such ceiling and in any case, they do not follow any ceiling in practice. The learned counsel for the respondents without producing a copy of the letter dated 4.3.1997 avers that such a ceiling has indeed been imposed by the railways in relation to the cases treated at Indraprastha Apollo Hospital and according to him, different limits appear to have been laid down by the Railways for different hospitals on the approved panel.



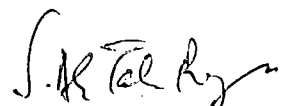
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In the absence of a copy of the letter dated 4.3.1997, I cannot feel sure that such a ceiling in fact exists. The respondents should have made sure that a copy of the said letter being crucial in this case is produced in the Court at the right time. However, notwithstanding the aforesaid position, I am inclined to place reliance on N.M. Rokde's case (supra) wherein, by a conscious decision, the requirement of ceiling has been waived by the Tribunal and also on the precedent of a Railway officer referred to above. I am inclined to do the same in the present case.

7. In the background of the above discussion, I find merit in the OA which succeeds and is allowed. The respondents are directed to pay Rs.1,04,262/- being the difference between the amount found admissible by the railway authorities and the amount already paid to the applicant, in a period of one month from the date of receipt of a copy of this order. In the circumstances of this case, no interest is required to be paid.

8. The OA is allowed in the aforestated terms. No costs.


(S.A.T. Rizvi)
Member (A)

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