

2-5a

OA 2277/2000

MA 2703/2000

Present : Applicant, in person

None for the respondents

The applicant states that his counsel is out of station and seeks adjournment.

List on 17-5-2001

Q

(S-AT. Rizvi)

Member (A)

(Ples)

22/5/01

Admit
Pleading complete

OA has been dismissed by a
Sipri Banerjee, Advocate on behalf of the applicant, Mrs.

Mark
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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.2277/2000

New Delhi, this 22nd day of May, 2001

Hon'ble Shri M.P.Singh, Member(A)

Brij Bhushan Sharma
31/3, Old Rajinder Nagar, Delhi .. Applicant
(By Shri Ajay Talesara, Advocate)

versus

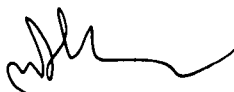
1. General Manager, Telecom
Faridabad Telecom District
Sector 16, Near Sangam Cinema
Faridabad, Haryana
2. Secretary
Deptt. of Telecommunication
Sanchar Bhavan, New Delhi .. Respondents

(By Shri R.P. Aggarwal, Advocate)

ORDER (oral)

Applicant has filed this OA under section 19 of the Administrative Tribunals Act, 1985 challenging the orders dated 28.7.99, 5.1.2000, 1.2.2000 and 5.6.2000, whereby his medical reimbursement claim for Rs.50,573/- has been rejected.

2. Brief facts of the case, as stated by the applicant, are that while he was serving in Telecom Department, Faridabad, he along with his wife visited a relative at Rajinder Nagar, New Delhi on 30.1.97 when all of a sudden his wife became unconscious and he took her to Sir Ganga Ram Hospital (SGRH, for short) being near to the place. After first aid, some tests were prescribed in SGRH. He was told that his wife had been diagnosed as having cancer and the doctors advised that his wife should be admitted to the hospital immediately for treatment and accordingly she was admitted as an emergency case. She was treated from 14.2.97 to 27.2.97. For this treatment, applicant incurred an



amount of Rs.50,573. He submitted the bill to R-1 requesting him for reimbursement of the aforesaid amount paid by him to the hospital. His claim for reimbursement of the medical expenses has been rejected by the respondents and he is before this Tribunal seeking directions to quash the impugned orders passed by R-1 and further directions to the respondents to make payment of the medical bill to the tune of Rs.50,573 with interest @ 24% p.a. thereon.

3. Respondents in their reply have stated that as per the Medical Attendance Rules, a government servant is entitled to get treatment in government hospital/ recognised hospital. Central Govt. servants and members of their family may receive treatment for all diseases (other than TB, Cancer, Polio and Mental diseases) for which treatment is provided under the rules in a government/ recognised hospital outside the district/state but within India, provided the treatment outside the district/state is recommended by the authorised medical attendant and countersigned by the CMO of the district if the treatment is to be undertaken outside the district or by the Chief Admn. Medical Officer of the State if it is to be undertaken outside the State. In emergent cases involving accidents, serious nature of disease, etc. the persons on the spot may use their discretion for taking the patient for treatment in a private hospital in case no government or recognised hospital is available nearer to the private hospital. The controlling authority/department will decide on the merits of the case whether it was a case of real emergency necessitating admission in a private institution. According to the respondents, government



have recognised Irwin Hospital, Lady Harding Medical College Hospital and Safdarjung Hospital in New Delhi/Delhi for treatment of cancer. It is stated by the respondents that as per the prevailing rules on the issue of reimbursement of medical expenditure, the case has been considered and it was found that the expenditure incurred did not qualify for reimbursement on the ground that he had sought the treatment at hospital which was not approved for such treatments by the Government for seeking medical reimbursement. Secondly, the claimant had tried to claim the reimbursement on the grounds of emergency which is not substantiated by the documents of the hospital attached with the claim papers submitted to the department.

4. They have further stated that the OPD card mentions that survival biopsy for squamous cell carcinoma had been done on 9.1.97 whereas the patient, as stated by the applicant, was taken to Dr. (Mrs.) Indrani Ganguli on 31.1.97. The OPD card also records that the patient has been referred by Dr. Bhatti and that ultra sound examination has been done on 5.1.97. The card also records that the patient had been admitted for control of BP and diabetes and PAC and it is once again reiterated that the applicant is putting forth misleading statements far from the truth and the facts of the case. In view of the aforesaid submissions, the OA has no merit and is liable to be dismissed.

5. Heard the rival contentions of both the contesting parties and perused the records. During the course of the arguments, learned counsel for the applicant drew my attention to the judgements of Punjab & Haryana High



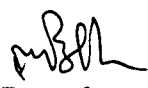
Court in CWP No.7674/94 decided on 7.9.95 and CWP No.13062/95 decided on 13.12.95 and submitted that the applicant's wife became unconscious, it was an emergent case and she was to be taken to the nearest hospital for treatment. He also submitted that charges for treatment in private hospital are admissible. He further placed reliance on the judgement of apex court in the case of Kuldip Singh Vs. State of Punjab AIR 1996 SCC 1632.

6. On the other hand, learned counsel for the respondents stated that reimbursement of medical claim by the applicant is not admissible as SGRH is a private hospital and not a recognised hospital. Moreover, the OPD card issued by the hospital does not state that it was a case of emergency.

7. After hearing the learned counsel for both parties and perusing the records, I find that the judgements relied upon by the applicant are distinguishable inasmuch as they are not applicable in the present case. In these judgements, medical reimbursement was allowed as they were emergent cases involving heart ailment. In the present case, I do not find that it was a case of emergency. Moreover, applicant in para 4.4 of the rejoinder has stated that Dr. (Mrs.) Indrani Ganguli is a Specialist Gynecologist at SGRH and he took his wife when she fell ill on 30.1.97 to the Pathologist at SGRH who was known to him and the said Pathologist referred applicant's wife to Dr. Ganguli. From the aforesaid statement, it is clear that the applicant took his wife to SGRH for treatment not because it was a case of emergency but due to the fact ^{that} a Pathologist working in that Hospital was known to him.

8. After perusing the records, I am of the considered view that the respondents have rightly rejected reimbursement of the medical claim of the applicant on the ground that it is not admissible under the Medical Attendance Rules as it was not a case of emergency and SGRH is not a recognised hospital. Applicant's counsel also drew my attention to para 12 of MA Rules but in view of the fact that the treatment for the cancer is available in Government Hospitals in Delhi/New Delhi as mentioned in para 3 above, the aforesaid provision of para 12 is not applicable to applicant's case.

9. In view of the aforesaid discussions, the OA is devoid of merit and is accordingly dismissed. No costs.


(M.P. Singh)
Member(A)

/gtv/