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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No. 906/2000

New Delhi this the 2nd day of October, 2001.

HON'BLE MR. SHANKER RAJU, MEMBER (JUDICIAL)

Madan Mohan Arora,
S/o Shri Karam Chand,
Retired Section Engineer (WR),
Northern Railway Workshop,
Jagadhri,
R/o F.355, Sector 9,
Vijay Nagar, Ghaziabad.

-Applicant

(By Advocate Shri K.K. Puri)

-Versus-

The Union of India through:

1. The Secretary,
Ministry of Railways,
Railway Board, Rail Bhavan,
New Delhi.
2. The General Manager,
Northern Railway,
Headquarters Office,
Baroda House,
New Delhi.

-Respondents

(By Advocate Shri B.S. Jain)

O R D E R (ORAL)

By Mr. Shanker Raju, Member (J):

Heard the parties. The claim of the applicant is for medical re-imbursement of an amount of Rs.18,362/- which has been recommended by the General Manager, Northern Railway to Railway Board along with an interest of 16% p.a. The applicant has assailed an order passed by the respondents rejecting his request by an order dated 19.7.99.

2. Briefly stated the applicant while working with the Railway met with an accident on 7.7.97 when he was going to attend his duty. The applicant suffered multiple fracture in the left elbow and was profusely bleeding. He was removed by the passerby and taken to the Railway

Hospital, Jagadhari and in view of his serious condition he has been referred to the Lal Maternity and General Hospital, Jagadhari for further treatment. The applicant was taken to the said hospital on 7.7.97 itself and due to the critical condition of the applicant he was taken to Kohli Nursing and Maternity Hospital which was having bones and joints specialist and better facilities in orthopaedics and later on the applicant was operated on 10.7.97 but due to an infection and multiple fracture of bones in left elbow he was re-operated on 1.8.97. The applicant remained in the said hospital in two spells from 10.7.97 to 17.7.97 and 28.7.97 to 11.8.97. His claim is that by writing a detailed Note the concerned Chief Medical Superintendent, Northern Railway Workshop, Jagadhari has recommended the case of the applicant. In this backdrop it is stated by resorted to the ratio of the Apex Court in Pt. Parmanand Katra v. U.O.I., 1989 (4) SCC 286 that there can be no second opinion that preservation of human life is of paramount importance. That is so on account of the fact that once life is lost, the status quo ante cannot be restored as resurrection is beyond the capacity of man." The applicant has further placed reliance on N.B. Rao v. Union of India, 1995 (31) ATC 1 as well as the Apex Court decision in Surjit Singh v. State of Punjab and Others, JT 1996 (2) SC 28 to contend that one has a right to life and the applicant's claim once justified by the Railway is justifiable under the Railway Medical Attendance Rules as he is entitled for medical treatment free of charge and the Lal Maternity and General Hospital is within the panel of the Railway where the treatment accorded the re-imbursement is admissible. Lastly, it is contended that in N.B. Rao's case (supra) an interest of 10% was also accorded by the

court while directing the respondents to re-imburse the medical expenses incurred. It is further stated that injury was of such a nature that the life of the applicant would have been in danger but for the operation he is entitled for the medical re-imbursement.

3. The learned counsel for the respondents, strongly rebutting the contentions of the applicant, taken a preliminary objection that as the applicant is a resident of Ghaziabad and has received the impugned order outside Delhi, this court has no jurisdiction to deal with the controversy in the present OA. Placing reliance on a decision of this Court in 1097/96 decided on 11.1.2000 - Sumit Kumar & Ors. v. Union of India & Ors., stated that in view of the decision of the Full Bench in Alok Kumar Singh and Anr. v. Union of India & Anr. (Full Bench Judgments of CAT (1991-1994 Vol.III P.7) the Division Bench has taken a view that even if the orders are issued from Delhi but not communicated to the applicant in Delhi the question of any part of cause of action arisen would not be available to the applicant. The learned counsel for the respondents further stated that the claim of the applicant has been vetted by the finance and referred to the Railway Board for their sanction, but as no life threatening emergency was involved the same has been rejected. The learned counsel for the respondents further contended that the applicant has filed the copy of the Note of Chief Medical Superintendent dated 15.6.96 in his rejoinder and to which he has not been given an opportunity to rebut the same.

4. Having regard to the rival contentions of the parties and perusal of the material on record the preliminary objection of the respondents regarding the jurisdiction of this court is rejected. As per the provisions of Rule 6 of the Central Administrative Tribunal (Procedure) Rules, 1987 the application shall ordinarily be filed by an applicant with the Registrar of the Bench within whose jurisdiction (i) the applicant is posted for the time being, or (ii) the cause of action wholly or in part, has arisen and place where it has been arisen the Tribunal has jurisdiction to entertain the case and deal with the grievance. The decision of the Full Bench in the case of Alok Kumar Singh (supra) wherein the reference was whether the cause of action in part arose at a place where an adverse order is received and Tribunal of that place has jurisdiction to adjudicate the dispute relating to it has observed after meticulously dealing with the issue and case law on the subject that as the cause of action arose within the territorial jurisdiction of the Tribunal at Allahabad and as such the said Bench had jurisdiction to adjudicate the question that arose in the OA. It is further observed that wherein an adverse order or communication is received that also gives rise to the cause of action. In this view of the matter is apparent that firstly the cause of action arises at a place where an adverse order is passed and apart from it, the jurisdiction is also available at a place where the order is received. As the orders have been passed by the respondents at New Delhi the Principal Bench has jurisdiction to deal with the case, as the cause of action has wholly arisen at New Delhi. The decision referred to by the learned counsel of the Division Bench has not highlighted the entire text of the Full Bench and

is only on the basis of an observation made in a paragraph concluded that the court has no jurisdiction. In view of the fact that the decision of the Full Bench has an over-riding effect on the decision of the Division Bench I fully endorse the same and by following it reject the preliminary objection of the respondents and hold that this Court has jurisdiction to deal with this case.

5. As regards re-imbursement of the medical expenses is concerned, admittedly the respondents have rejected the same after the same has been approved and referred to the Railway Board by the General Manager on the ground that disease was not life threatening. Having regard to the circumstances of the case and the fact that Chief Medical Superintendent has endorsed the grave illness of the applicant and recommended and forwarded his case by letter dated 15.6.98, which is a valid compliance of the rules and regulations as contained in the Medical Rules of the Railways. The respondents have not at all taken into consideration this letter which has now been annexed with the rejoinder. However, the contention of the respondents is right to the extent that they have been taken by surprise by this letter dated 15.6.98. Had it been annexed with the representation of the applicant earlier the same would have been looked into for consideration of the claim of the applicant.

6. In my considered view, as the injury, i.e., multiple fracture of bone at seven places, is life threatening injury but for the operation the applicant has been saved.

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7. In the result, the OA is partly allowed. The orders passed by the respondents are quashed and set aside. The matter is remanded back to the respondents to re-consider the claim of the applicant for medical re-imbursement in view of the certificate issued by the Chief Medical Superintendent on 15.6.98 and to decide the same by passing a detailed and speaking orders within two months from the date of receipt of this order. In the event the applicant is accorded medical re-imbursement he shall also be entitled to simple interest at the rate of 10% per annum. No costs.

S. Raju

(Shanker Raju)
Member (J)

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