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**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

OA No. 2393/2004

New Delhi this the 5th day of September, 2005

Hon'ble Mrs. Meera Chhibber, Member (J)

Shri H.P.Sinha,
S/O Late Shri S.P.Sinha,
B-7, Extension /22,
Safdarjung Enclave, New Delhi.

..Applicant

(By Advocate Shri S.P.Chadha)

VERSUS

1. Union of India through
The Secretary, Ministry of Health,
Nirman Bhawan, New Delhi.
2. The Director General,
Central Govt. Health Scheme,
Nirman Bhawan, New Delhi.

..Respondents

(By Advocate Shri B.K.Berera)

O R D E R

By this OA, applicant has sought a direction to the respondents to reimburse the balance amount of Rs.43,354/- alongwith 18% interest as applicant was treated in Batra Hospital from 17.2.2001 to 13.3.2001 where his angiography was done initially and later on bye-pass surgery was conducted.



2. It is stated by applicant that as per OM dated 7.9.2001 applicant was entitled to get full reimbursement of Rs.1,63,514/- but he was paid only 1,20,160/-. The amount of Rs 43,354 was not paid illegally. Therefore, he gave representation on 22.6.2001, 14.3.2001, 20.12.2001 and 14.8.2004 but till date no reply has been given to him. He relied on the judgment dated 25.1.2002 given in OA 248/PB/2001 by Chandigarh Bench and also judgment dated 3.1.2002 decided by Hon'ble High Court of Delhi in Writ Petition No. 1478/2002.

3. Respondents on the other hand have opposed this OA. They have submitted that applicant was admitted in Batra Hospital between 17.2.2001 and 3.3.2001 when OM dated 18.9.1996 was in force. Accordingly applicant was reimbursed Rs.1,20,160/- as per CGHS approved rates in 2001 itself whereas present OA has been filed more than 3 years thereafter. This being a money claim is barred by limitation. The representation filed after 3 years cannot extend the period of limitation.

4. It was only in September, 2001 that Govt. had entered into memorandum of Agreement with Pvt. Hospitals recognized under CGHS and now those hospitals cannot charge more than the ceiling rates revised by the Govt. on 7.9.2001. Earlier Govt. had issued OM dated 11.6.1997 clarifying

that any amount over and above the ceiling rates charged by the Hospital would have to be borne by the beneficiary. They have relied on the judgment of Hon'ble Supreme Court in the case of R.L.Bagga Vs. State of Punjab wherein it was held that no State or Country can have unlimited resources to spend on any of its project. Therefore, provision of facilities cannot be unlimited.

5. I have heard both the counsel and perused the pleadings as well. In the instant case the claim of applicant was settled by respondents in the year 2001 as per the OM then in existence. Applicant did not challenge the actions of respondents by filing a court case meaning thereby he had accepted the situation or acquiesced to the situation Thereafter if some judgment was passed by the Tribunal it cannot give a cause of action to the applicant. It has already been held by Hon'ble Supreme Court in the case of Bhoop Singh Vs. UOI and Ors (1992 ATC 675).

6. Moreover counsel for respondents has placed reliance on 1994(3) AISLJ 260 wherein Division Bench of Chandigarh Bench had held that money claims cannot be raised after 3 years under the limitation Act and a decision by CAT in some other case does not give a new cause of action.

7. Judicial discipline requires that a principle^{by 12} of law decided by Division Bench should be followed ^{by 12} a Single Bench as it is binding.

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Therefore, the present case being covered by Chandigarh Bench decision cannot be re-opened now. It is well settled that whenever a new judgment comes, it applies to pending cases as it has prospective effect. The cases which are already settled cannot be reopened on the premise that a different view is taken by courts now. If such a practice was to be followed, there will be no end to litigation and it will open a floodgate for litigation by all those, whose claims had already been settled by the respondents as per then existing OMs issued by Govt. from time to time. In the instant case, applicant's claim was settled as back as in May, 2001; whereas present OA has been filed only in October, 2004 i.e., after more than about 3 years. In these circumstances, I do not think this case can be interfered with in view of the above judgment. The OA is accordingly dismissed. No order as to costs.

Meera Chhibber
(Mrs. Meera Chhibber)
Member (J)

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