

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

OA 2639/2004

New Delhi, this the 2<sup>nd</sup> day of November, 2004

Hon'ble Sh. Sarweshwar Jha, Member (A)

Sh. S.N.Narula  
Ex.Sr. Commercial Officer  
(Presenting Officer)  
Railway Claims Tribunal  
Northern Railway  
New Delhi  
R/o C-161, Surajmal Vihar,  
Delhi - 110 092.

...Applicant

(By Advocate Ms. Meenu Mainee  
proxy for Sh. B.S.Mainee)

V E R S U S

Union of India through

1. The Secretary  
Ministry of Railways  
Rail Bhawan, New Delhi.
2. The General Manager  
Northern Railway  
Baroda House, New Delhi.
3. The Chief Health Director  
Northern Railway, Baroda House  
New Delhi.
4. The Medical Superintendent  
Divisional Hospital  
Northern Railway, Delhi.

...Respondents

**O R D E R (ORAL)**

Heard.

2. It is a case of medical reimbursement as claimed by the applicant for the treatment which he availed himself of in a private hospital on 16-12-2003. It appears that the applicant approached the private hospital after he felt heaviness in his chest coupled with breathlessness, weakness and vomiting and the hospital admitted him after necessary examination in the ICCU. From this, it appears that the applicant did approach the hospital when his health condition was critical and he deserved emergency treatment. From

*S. N. Narula*

what has been submitted by the applicant in paragraph 4.6, it appears that the applicant while being discharged was also given a certificate about the emergent circumstances in which he had been admitted to the hospital and where he was put on oxygen for critical respiratory illness and pneumonitis.

3. The applicant has referred to the reply of the respondents as given vide the impugned order where the respondents have taken a position that, as per the records available, no emergency treatment was given and that he could have approached the Railway Hospital for the said treatment. Accordingly, they have not accepted the reimbursement claim of the applicant. It is, however, not clear from the reply of the respondents as to on what basis they have taken a view that no emergency treatment was given when the hospital authorities, as per what has been submitted by the applicant in para 4.6 themselves admitted him in ICCU and gave emergency treatment.

4. In this connection, the applicant has also referred to the view taken by the Hon'ble Supreme Court in similar case where right to life and preservation of life in emergency has been emphasized. Reference has also been made to the decisions of the Hon'ble Delhi High Court in **Kamlesh Sharma v. MCD and Prithvi Nath Chopra v. UOI** (ATJ 2004 (3) 304) in which the Hon'ble High Court has held that "self-preservation of one's life is necessary right to life enshrined in Article 21 of the Constitution of India which is fundamental in nature sacred, precious and valuable.

5. Keeping in view the fact that the respondents are likely to expand and elaborate whatever they have already said in their impugned order dated 13-9-2004 and also the fact that they may not be aware of the decisions of the Hon'ble Supreme Court and the High Court in the matter as referred to by the applicant, and also that the facts of emergency in the treatment received by the applicant in emergent circumstances including admission in ICCU on the day of ailment have been submitted by the applicant in paragraph 4.6, I am of the considered opinion that it will be appropriate to dispose of the matter at the admission stage itself with directions to the respondents to give a fresh consideration to the subject matter of this OA by treating the same as another representation of the applicant and to decide the matter appropriately with reference to the said decisions and also the



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relevant rules/instructions on the subject and to communicate the same to the applicant through a reasoned and speaking order within a period of two months from the date of receipt of a copy of this order. With this, this OA stands disposed of.

  
(Sarweshwar Jha)  
Member (A)

/vikas /