

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

O.A. 251/2004

New Delhi this the 13th day of January, 2005

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

B.K. Rehani,
R/o 28-A, Old Arya Nagar,
Gali No. 4-B,
Ghaziabad (UP).

.... Applicant.

(By Advocate Shri Yogesh Sharma)

Versus

1. Union of India through the General Manager,
Northern Railway, Baroda House, New Delhi.
2. The Chief Health Director,
Northern Railway, Baroda House,
New Delhi.
3. The Sr. Divisional Medical Officer,
Divisional Hospital, Northern Railway,
Near Old Delhi Railway Station, Delhi. Respondents.

(By Advocate Shri Rajinder Khatter)

O R D E R (ORAL)

By this O.A., applicant has sought quashing of the order dated 20.03.2003 whereby the claim of applicant for medical treatment has been rejected , on the ground that he had gone for his TURP surgery in a very planned manner to a private non-recognized hospital when the facilities were very much available in Northern Railway Central Hospital. As TURP is not an emergency procedure, therefore, he is not entitled for reimbursement.

2. It is submitted by the applicant that in March, 2001, he reported to Northern Railway Central Hospital, New Delhi for his treatment of Angina Prostrate, glands enlargements, chronic constipation and anemia. Number of tests were carried out in the Northern Railway Central Hospital from March, 2001

to August, 2001. On 3.9.2001, applicant was to be operated in Northern Railway Central Hospital but the same was not undertaken due to bleeding. His case was accordingly referred by the Railway Doctors to Dr. Bhagava's Hospital for stenting instead of full prostrate operation on 22.9.2001.

3. On 18.09.2001, applicant became seriously ill due to angina and since he was residing in Ghaziabad, it was not possible for him to approach Dr. Bhargava. He, therefore, went to St. Joseph Hospital, Ghaziabad where he was admitted immediately for TURP Operation. His TURP operation was done on 4.10.2001. Thereafter, from 4.11.2001 to 5.4.2001 (sic.) with various breaks, applicant was admitted in Northern Railway Central Hospital on account of angina and on 13.3.2001 (sic.), he was again referred to AIIMS and presently he is under the treatment from AIIMS.

4. Applicant submitted his bill from St. Joseph's Hospital, Ghaziabad for reimbursement of Rs.14,414/- vide his representation dated 25.1.2002 followed by another representation dated 7.2.2002, but the same has been rejected, on the grounds as mentioned above. Being aggrieved by the order dated 18.2.2002, applicant gave another representation on 15.4.2002 to Respondent No. 3 but Respondent No. 3 also rejected his claim vide order dated 4.6.2002.

5. Applicant challenged the said order by filing O.A. No. 2064/2002, which was decided on 17.01.2003 and the Tribunal was pleased to set aside the impugned order directing the respondents to re-examine the claim of the applicant in the light of the decision of High Court as well as the medical record of the applicant. The respondents have once again rejected the applicant's claim vide order dated 20.03.2003, which is being challenged in the present O.A. on the ground that since he got himself admitted in private hospital in emergency in order to save his life, therefore, his claim could not have been rejected. He relied on the judgment given by Division Bench of Delhi High Court in the case of S.P. Kapur Vs. Union of India & Ors. (2000 (1) ATJ 654). He also relied on the judgments reported in 2000 (1) ATJ 582 and 2001 (1) ATJ 466.

6. Respondents on the other hand have submitted that as per records at the time of surgery, the applicant was undergoing investigation and treatment for his



ailment at Northern Railway Central Hospital and without any reference he went to a private hospital in a planned manner against the rules and instructions. He was not admitted in any emergent condition in the private hospital as no certificate (essentiality or emergency) has been given by the hospital or annexed by the applicant which itself shows that applicant was not admitted in the hospital due to emergency. They have further explained that he became ill as per his own averments on 10.9.2001 whereas the procedure was performed after approximately 25 days i.e. on 4.10.2001. This itself shows that there was no emergency. It is submitted that the applicant had angina pain but as per the records annexed it is seen that on 25.09.2001, he was advised, after initial management, to return after one week which again shows that there was no emergency. Therefore, he could have easily reported to Railway Hospital for any medical assistance. Moreover, applicant was treated in OPD which once again shows that there was no emergency. They have further stated that the angina pain is different from prostrate and he is mixing up both the things unnecessarily. They have further submitted that even during his attendance at Private Hospital, applicant was never given any specific specialized treatment for cardiac emergency but was being managed for his prostrate disease in a planned manner. They have thus submitted that the O.A. is ^{de p} void of merits and, therefore, the same may be dismissed.

7. I have heard both the counsel and perused the pleadings as well.
8. Admittedly, the only ground on which a person can claim medical reimbursement even after taking treatment from a private hospital is that ~~if~~ he had to approach the private hospital in an absolute emergent condition. The condition should be such that he cannot either wait or go to a recognized hospital being at a much distant place or the condition of patient is such that he has to be operated upon immediately. In the instant case, from the averments made by the applicant himself, it is clear that there was no such emergent situation, because applicant attended St. Joseph Hospital, on 25.09.2001. He was admitted on 01.10.2001 i.e. after six days, that too for TURP which is not an emergency procedure and can be done in a planned manner for prostrate. Prostrate and



Angina are two different things which are being intermixed by the applicant. Applicant has also not annexed any certificate to show that he was admitted in the private hospital in an emergent situation, which is the requirement in accordance with the rules and since respondents have already applied their mind to this aspect and have arrived at a finding that the applicant was not in an emergent situation when he got himself operated in a private hospital, the claim as made by him cannot be granted. The judgments which have been referred to by the counsel for applicant would have applied only when the applicant was able to show that he was admitted in the private hospital in an emergent situation. Since that is not the case here, those judgments would not be applicable in the facts of this case. In view of the above discussion, I find no illegality in the orders passed by the respondents. Therefore, this O.A. is dismissed being devoid of merits. No order as to costs.



(MRS. MEERA CHHIBBER)
MEMBER (J)

'SRD'