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**Central Administrative Tribunal
Principal Bench**

OA No. 549/2004

New Delhi, this the 6th day of October, 2005

Hon'ble Mr. Shanker Raju, Member (J)

Prem Pal Singh

...Applicant

(By Advocate: Shri R.K. Shukla)

-versus-

Union of India through & Ors.

...Respondents

(By Advocate: Mrs. Harvinder Oberoi)

1. Whether to be referred to the reporter? yes
2. Whether to be circulated to other outlying Benches? yes

S. Raju
(Shanker Raju)
Member (J)

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Hon'ble Mr. Shanker Raju, Member (J)

Prem Pal Singh
S/o Shri Lakhmi Singh,
Retired Mate, Transport Section,
Card No. 278, Delhi Milk Scheme,
West Patel Nagar,
New Delhi - 110 008
R/o Gaukhana, Guptaganj,
Palwal, Distt. Faridabad(Haryana).

...Applicant

(By Advocate: Shri R.K. Shukla)

-versus-

Union of India through

1. The Secretary,
Ministry of Agriculture,
Department of Dairying & Animal Husbandry,
Krishi Bhawan, New Delhi - 110 001.
2. The General Manager,
Delhi Milk Scheme,
West Patel Nagar,
New Delhi- 110 008.

...Respondents

(By Advocate: Mrs. Harvinder Oberoi)

ORDER (ORAL)

By virtue of the present Original Application respondents' order
dated 04.09.2002 rejecting the claim of applicant for medical

reimbursement of the expenditure incurred on the treatment of his wife and son has been assailed.^h

2. Brief facts of the case are that the applicant's son received treatment in an emergency on 31.03.1998 and discharged on 20.04.1998 whereas his wife was admitted in Escort Hospital during the period from 16.09.1998 to 24.09.1998. The claim for medical reimbursement was made on 8.1.1999. On an earlier occasion the medical reimbursement of the applicant was rejected on 7.6.1999 on the ground that the said claim was made beyond the prescribed period of limitation i.e. three months from the date of completion of treatment as per Essentiality Certificate. However, by an order dated 30.10.2001, OA No. 1078/2000 was disposed of by this Tribunal with a direction to respondents to re-consider the case of the applicant by passing a detailed order.

3. In pursuance of the Tribunal's order dated 30.10.2001, the respondents vide their order dated 4.9.2002 has again turned down the medical claim of the applicant on personal hearing, being time barred.

4. Learned counsel for the applicant states that the treatment was only completed in 2004 as is evident from the earlier certificates, which show that the treatment had been undergoing for the ailments

in case of his wife and son. Certificates dated 10.12.2004 issued by the concerned hospitals, where earlier treatment was also reflected, have been relied upon.

5. On the other hand, respondents' counsel Mrs ^hHarvinder Oberoi vehemently opposed the contentions and stated that having preferred the claim on 8.1.1999, which is time barred as per GI, M.H., OM dated 15.12.68 and 28.12.1970. As per Essentiality Certificate, there is presumption of completion of treatment and on discharge of patient, the medical claim should be filed within three months. However, complying with the directions of the Tribunal passed in an earlier OA after according a personal hearing and on meticulous consideration, applicant's claim had been rejected being barred by time, which does not suffer from any infirmity.

6. I have carefully considered the rival contentions of the parties and have gone through the material on record.

7. In a matter of medical reimbursement, being a model employer, respondents should not take hyper technical view to deny the just claim of a person. Expenditure incurred by the applicant on the treatment of his wife and son requires no prior permission as the treatment was taken in Govt. recognized hospitals and on this ground claim cannot be rejected. In so far as limitation is concerned, no doubt

OM issued in 1970 ibid regulates the time limit as three months from the date of completion of medical treatment but it appears that even after discharge, the medical treatment continued till 2004 and this has been certified by the concerned hospitals. Moreover, OM dated 13.08.1981 provides as under:-

"(9) Heads of Departments delegated powers to condone delay in submission of claims. - (a) General - As per existing instructions, all cases where the medical claims are submitted after three months have to be referred to the Ministry of Health for relaxation and condonation of delay. It has since been decided that delay beyond three months in submission of the medical claims may be condoned by the Ministries/Departments of the Central Government/Comptroller and Auditor-General of India, etc., subject to the following:-

(i) Each individual case seeking condonation of delay in submission of medical claims will be considered by the controlling authorities/administrative authorities on merit particularly keeping in view the need to prevent malpractices. After giving reasonable opportunity to the Government employee, the controlling authorities will be free to reject the medical claims when they are not convinced of the reasons for delay involved in the submission of the claims.

(ii) It will be open to the Controlling/Administrative Ministries/ the Comptroller and Auditor General of India to lay down monetary limits of the medical claims and the period upto which delay can be condoned at various levels, it being ensured that no case relating to condonation of delay is agreed to at a level lower than the Head of a Department.

(iii) The treatment has been obtained from authorized medical attendant/recognized hospital/dispensary/clinic, etc. under the CS(MA) Rules, 1944 and orders.

(G.I., M.H., O.M. No. S.14025/22/78-MS dated the 13th August, 1981)

Delegation of powers to Joint Secretaries - The issue of condonation of delay in submission of medical bills has been under consideration for some time past. It has now been decided that all those cases where the medical claims are submitted after 3 months and may not be referred to this Ministry for relaxation and condonation of delay and each individual case seeking condonation of delay in submission of medical claims may now be considered by the controlling authorities/administrative authorities on merits of each case, particularly keeping in view the need to prevent malpractices. After giving reasonable opportunity to the Government employees, the controlling authorities are free to reject the medical claims when they are not convinced of the reasons for delay involved in the submission of the claims.

2. The condonation of delay cannot be considered as a routine matter as Government finances are involved. However, as the Heads of the Departments remain very busy and consequently, such type of cases get delayed and the Government employees face hardships due to delay in reimbursement of medical expenditure to them, the powers are delegated for condonation of delays in submission of medical bills to all the Joint Secretaries, in addition to Head of the Department concerned.

3. These orders issue with the concurrence of JS & FA (Health) vide their Dy. No. 1431/99-JS & FA (H) dated 17.3.1999.

4. In so far as persons serving in the Indian Audit and Accounts Departments are concerned, these issue with the concurrence of the Office of the C & AG vide their U.O. No. 199 - Audit (Rules)/73-98, dated 18.5.1999.

(G.I., M.H. OM No. S.14025/8/99-MS dated 25th May 1999)

Full powers delegated to CGMs in Dept. of Telecommunications to condone delay - The Telecom Commission has decided to delegate the powers to Chief General Managers to condone delays in submission of medical claims by Telecom employees without any monetary limits and also period of delay. The powers to condone delays should be exercised personally by the Heads of Circles in consultation with IFA and this power should not be delegated to lower levels. While condoning delays, CGMs/GMs should keep in view the various requirements under the CS(MA) Rules.

2. The Heads of Circles will ensure that each individual case seeking condonation of delay in submission of medical claims is considered on merits, particularly keeping in view the need to prevent malpractices. He will be free to reject medical claims when he is not convinced of the reasons for delay in the submission of the claims, after giving reasonable opportunity to the employee(s). The provisions of Ministry of Health and Family Welfare, O.M. No. F.29/40/68-MA, dated 15.10.1968 and dated 28.12.1970 may also be kept in view.

(G.I., Dept. of Telecom, Cir. Lr. No. 19-7/92-PAT, dt. the 12th May, 1993)"

7. If one has regard to the above, in the matter of condonation of delay, Head of the Ministries/Departments are empowered to condone the delay. The grounds adduced and material produced clearly point out towards bona fide of the applicant in late submission of medical

claim by him and moreover as per Essentiality Certificate treatment had even continued thereafter.

8. In the above backdrop, when Govt. of India's instructions envisage consideration for condonation of delay, O.A. is partly allowed and the impugned order is set aside. Respondents are directed to consider condonation of delay in late submission of claim for medical reimbursement by the applicant for the expenditure incurred on the ailment of his wife and son and thereafter to reimburse the same to the applicant. This shall be done within a period of three months from the date of receipt of a copy of this order.

S. Raju
(Shanker Raju)
Member (J)

/na/