

Central Administrative Tribunal  
Principal Bench

O.A. No. 578/2004

New Delhi, this the <sup>28<sup>th</sup></sup> day of September, 2004

**Hon'ble Shri V.K. Majotra, Vice-Chairman (A)**

V.K. Arora  
Pensioner,  
Flat No. 72, Trilok Apartments,  
85, I.P. Extension,  
Delhi – 110 069.  
Ex-employee (Draftsman Gr.I) of  
Garrison Engineer, MES,  
Roorkee (Uttranchal)

...Applicant

(By Advocate: Shri Susheel Sharma)

-versus-

1. Union of India  
Through Secretary,  
Ministry of Defence,  
South Block, New Delhi – 11.
2. Engineer in Chief  
Army Headquarters, DHQ PO  
Kashmir House,  
New Delhi.
3. Garrison Engineer,  
MES, Roorkee,  
Uttranchal. ....Respondents

(By Advocate: Shri Madhav Panikar)

**O R D E R**

Applicant has challenged non-reimbursement of medical expenses in full incurred by him towards his bypass surgery and the related treatment thereto and also impugned Annexure A-1 dated 31.07.2002 whereby respondents have rejected applicant's representation for reimbursement of the balance amount.

2. Learned counsel of the applicant stated that applicant had been admitted to Metro Hospitals & Heart Institute, Noida in emergency where he was operated on 29.10.1998. Thereafter, he has been spending a sum of Rs. 700/- to Rs. 1000/- per month towards post-operative care and treatment in private nursing homes. Applicant is stated to have submitted his medical bills totalling to Rs. 1,30,336/- to respondent no. 3 for reimbursement. A sum of Rs. 82,232/- has been reimbursed to the applicant. Despite representations, applicant has not been released the remaining amount of Rs. 48,104/-. Learned counsel relied upon the judgment dated July 29, 2004 of the Hon'ble High Court in W.P. (C) 2078/2003. Learned counsel stated that on the basis of this judgment, applicant should have been reimbursed the entire claimed amount as there does not exist any package and, if at all, there is a ceiling, the excess amount, over and above the package amount, could have been recovered later on from the concerned hospital.

3. On the other hand, learned counsel of the respondents stated that while the applicant had submitted bill on account of bypass surgery as per the certificate dated 7.12.1998, applicant had received treatment for PTCA + Stenting. Learned counsel maintained that applicant has been reimbursed the amount as per relevant rules as also instructions on the subject. Learned counsel relied upon the judgment of the Hon'ble Supreme Court in ***State of Punjab & Others vs. Ram Lubhaya Bagga and Others*** (1998) 4 SCC 117, contending that Government is justified in limiting the facilities to the extent permitted by its financial resources. Learned counsel stated that applicant has been paid the amount as per the related package.

4. While the package for treatment at certain private hospitals does exist, neither side has produced copy of Government orders on the

package. Hon'ble Supreme Court in the case of Ram **Lubhaya Bagga & Others**, has observed:

*"No State or country can have unlimited resources to spend on any of its projects. That is why it only approves its projects to the extent it is feasible. The same holds good for providing medical facilities to its citizens including its employees. Provision of facilities cannot be unlimited. It has to be to the extent finances permit. If no scale or rate is fixed then in case private clinics or hospitals increase their rate to exorbitant scales, the State would be bound to reimburse the same. The principle of fixation of rate and scale under the new policy is justified and cannot be held to be violative of Article 21 or Article 47 of the Constitution."*

5. Hon'ble High Court in its judgment dated 29.7.2000, which has been relied upon on behalf of the applicant, has not considered the ratio of the case of **Ram Lubhaya Bagga** (supra). While the State can approve certain private hospitals and packages for specialized treatments in such hospitals, limiting reimbursement to the ceiling in the packages cannot be challenged. Reimbursement can be challenged only if reimbursement has not been accorded even upto ceiling under the package. Such is not the case here. Respondents claim to have reimbursed the amount to the applicant under the package. Government cannot be called upon to make full payment asked for by the hospitals and then recover the amount in excess of the package from the hospitals, that would be going against the spirit of Supreme Court's decision in the case of **Ram Lubhaya Bagga**.

6. Having regard to the discussions made above, this O.A. is dismissed being devoid of merits. No costs.

*V.K.Majotra*  
 (V.K.Majotra) 28.9.04  
 Vice Chairman (A)

/na/