

Central Administrative Tribunal
Principal Bench: New Delhi

OA No.2472 of 1992 decided on 19.5.1997.

Shri H.C. Sharma.

...Applicant.

(By advocate: Shri Ashish Kalia)

Versus

Union of India & Ors.

Respondents.

(By advocate: Shri P.H.Ramchandani)

Coram: Hon'ble Mr N. Sahu, Member (A)

1. To be referred to the Reporter or not? YES
2. Whether to be circulated to other Benches of the Tribunal? NO

Narasimhaiah
(N. Sahu)
Member (A)
27.5.97.

19/5/97

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

O.A. No. 2472/92

(2)

New Delhi this the 19th day of May 1997.

Hon'ble Mr. N. Sahu, Member(A)

Shri H.C. Sharma
Sr. Auditor A/C No.8295572
AAO(Pay) WC,
Delhi Cantt-110 010

....Applicant

(By Advocate : Shri Ashish Kalia)

Versus

1. Union of India
through
The Controller General
of Defence Accounts,
West Block-V
R.K. Puram, New Delhi
2. The Controller of Defence Accounts,
W.C. Chandi Mandir,
Chandigarh.
3. The Director General,
Central Govt. Health Services,
Nirman Bhawan
New Delhi

...Respondents

(By Advocate : Shri P.H. Ramchandani)

ORDER (ORAL)

Hon'ble Mr. N.Sahu, Member(A)

Heard. In this O.A. the applicant prays for a direction that the medical reimbursement of Rs.7,469/- incurred by him in Sir Ganga Ram Hospital be reimbursed to him. The brief facts are that there was a departmental enquiry against the applicant on 08.05.1990. Just before that he had met with a road accident on 24.03.1990. He could not attend to the various dates fixed for hearing by the Enquiry Officer. The undisputed fact is that the Enquiry Officer by her letter dated 23.03.1990 directed the applicant "to present yourself for medical examination before the Chief Officer of Sir Ganga Ram Hospital, New Delhi". The applicant presented himself before the Chief Medical Officer of Sir Ganga Ram Hospital on 03.08.1990. He remained in the said hospital from 05.08.90 to 25.08.90. It is



noticed by Annexure-5 that the Officer In-charge of Sir Ganga Ram Hospital stated that on his advice the applicant was admitted to the hospital for treatment of multiple fractures and the break-up for the costs was also noted. The applicant represented on 26.02.1991 to the Controller of Defence Accounts for reimbursement of medical expenditure. He stated that the area in which he resided was not covered under C.G.H.S. He submitted that he went to Sir Ganga Ram Hospital on the directions of the Enquiry Officer. It was only then that he had to get admitted himself there on the advice of hospital authorities and he had been intimating to his authorities through medical certificates from time to time and requesting that his absence might be regularised. On the ground that Sir Ganga Ram Hospital was not a recognised or an approved hospital and on the ground that his place of residence was not covered under C.G.H.S. he was advised to approach the highest authority, CGDA, who in turn refused the claim. Learned counsel appearing for the applicant stated that the applicant did not go to Sir Ganga Ram Hospital on his own. He was directed to go there by an Enquiry Officer. It was only at Sir Ganga Ram Hospital that on the advice of Chief Medical Officer, he had been admitted for treatment due to multiple fractures. Learned counsel for the applicant submitted that the applicant is subscribing to the C.G.H.S. regularly and he is entitled for the C.G.H.S. treatment and finally he has stated that the expenditure incurred by him was genuine and bonafide.

2. Learned counsel for the respondent Shri P.H. Ramchandani submitted that Sir Ganga Ram Hospital was not one of the eligible and recognised hospitals. It is positively brought out that the applicant was sent for medical examination and not for medical treatment. There are several rules framed by the Government for medical reimbursement.

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It is a privilege conferred by the Government on the employee by the rules and procedure laid-down for this purpose should be complied with to enable an employee to get the medical reimbursement. Even Annexure-A5 states that it was the doctor who advised on his own and not at the instance of either the C.G.H.S. or the Govt. authorities. In short, the learned counsel states that no competent authority has ever told the applicant to admit himself in Sir Ganga Ram Hospital for treatment. He should have gone to any other Govt. hospital and obtained the treatment as per the rules failing which he should have approached the competent authority for referring his name through a proper channel for reference to any other Govt. prescribed institution. Sir Ganga Ram Hospital is a very expensive and private institution which is not recognised, therefore, it is submitted that the amount incurred by the applicant in that institution cannot be allowed.

3. I have carefully considered the rival submissions. Of late, there is an enlargement of scope of relief as far as medical reimbursement is concerned by the judiciary in this country. The Government also has liberalised and facilitated the scope of reimbursement to deserving cases. It is necessary to cite the leading Hon'ble Supreme Court decisions on the subject. The first is State of Punjab & others versus Mahender Singh Chawla JT 1997 (1) SC 416. That was the case where the State Government refused to reimburse expenditure relating to the stay of attendant, or stay of patient in a hotel or hospital because by a policy decision such expenditure was not approved. The Supreme Court rules that the expenses incurred towards room rent for stay in hospital are an "integral part" of a treatment to government servant. In doing so, the Appex Court laid down the following:



"It is now settled law that right to health is an integral to right to life. Government has constitutional obligation to provide the health facilities. If the Government servant has suffered an ailment which requires treatment at a specialised approved hospital and on reference whereat the Government servant had undergone such treatment therein, it is but the duty of the State to bear the expenditure incurred by the Government servant. Expenditure, thus, incurred requires to be reimbursed by the State to the employee. The High Court was, therefore, right in giving direction to reimburse the expenses incurred towards room rent by the respondent during his stay in the hospital as an inpatient."

4. In that case further, the reference was made to the Escorts Heart Institute which is an authorised and recognised institution by the Government of Punjab. Therefore, when the patient was admitted and had taken the treatment in the hospital and had incurred expenditure towards room charges, the Supreme Court held that such expenditure was an integral part of the treatment itself and directed reimbursement of the same. Shri Ramchandani pointed out that the position is different when the hospital itself is not recognised and unauthorised. Admittedly, Sir Ganga Ram Hospital is neither recognised hospital nor an authorised institution. The second decision of the Hon'ble Supreme Court (JT 1996(2) SC 28 Surjeet Singh versus State of Punjab & others) is on the following facts:

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5. The appellant in that case suffered from heart diseases while in London. During his visit to his son residing there he had to undergo an emergency operation. Escorts Heart Institute is recognised for treatment. The Supreme Court held that had the appellant remained in India he could have gone to Escorts Heart Institute like many others did to save his life and that "it is fair and just that the Government should pay to the appellant the rates admissible as per the Escorts Heart Institute". The Supreme Court observed that the doctors in London had operated on the presumption that such an operation was essential and timely and such a presumption has been approved by the Appex Court. That was a case where except for the bare word of the appellant no documentary evidence in support of such a plea had been tendered but since the appellant had pared down his claim to the rates prevalent in the Escorts Heart Institute, his claim was allowed.

6. In a C.A.T. decision of Jabalpur Bench decided on 25.03.1996 in N.M. Roorki versus Union of India & others (ATJ 1996(2) page 16) the government servant was referred to Appollo Hospital. The reimbursement bill of Rs.84,000/- was submitted but this was restricted to only Rs.57,000/-. The claim for the balance amount was denied on the ground that the Appollo Hospital is a private one and the expenses are not fully reimbursible and are limited to a certain ceiling fixed by the Government from time to time. The Tribunal had extracted the Supreme Court decision in Surjeet Singh's case and exphasised that the doctrine of self preservation entitled a human being to take such steps as would ensure his right to life, right to work and right to sustain. The Supreme Court said it is not necessary for a government servant to stand in queue before the medical board or Government hospitals or AIIMS. Only condition is that the private institution must be recognised. On this I agree with the learned

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counsel for Respondents, Shri Ramchandani, that Sir Ganga Ram Hospital is not a recognised hospital. On the lines on which Surjeet Singh's case was decided by the Appex Court I direct that Respondent No.1, the Controller General of Defence Accounts, West Block 5, R.K. Puram, New Delhi shall allow such expenditure out of the claim of Rs.7,469 as is likely to be incurred in a recognised/approved private hospital contemporaneously during the period when the applicant was treated in Sir Ganga Ram Hospital for multiple fractures. For this purpose, he shall send all the medical records of the applicant to the Chief Medical Authority ^{Orthopaedic for ascertaining expenses.} of any approved and recognised private hospital. On such competent advice received by him, he shall restrict the claim to the amount that would have been incurred by the applicant had he been referred to a private recognised/approved hospital specialising in orthopaedic treatment anywhere in the country in the normal course. O.A. is disposed of on the above lines. This exercise shall be completed by Respondent No.1 within a period of 3 months from date of receipt of copy of this order.

N. SAHU
(N. SAHU) 19/5/97.
Member(A)

/Skant/