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OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH: ALLAHABAD

ORIGINAL APPLICATION NO.498/97

WEDNESDAY, THIS THE 30th DAY OF APRIL, 2003

HON. MRS. MEERA CHHIBBER, MEMBER (J)

Shri Nathu Singh,
s/o Poup Singh posted as
Black Smith in the
office of respondents no. 5 Military
Engineer Services (G),
Agra.

..Applicant

Counsel for the applicant:-Shri S.K.Srivastava.

V E R S U S

- *. Union of India through Secretary Ministry
of Defence, New Delhi
2. Chief Engineer, Zone Lucknow.
3. Chief Engineer (Central Command, Lucknow)
4. Commander Work Engineer,
Agra Cantt.
5. Garrison Engineer,
Agra, Military Engineer Services,
Agra.
6. R.P.Gupta, Chief D.Man,
G.E.M.E.S, Agra Cantt. Respondents.

Counsel for the respondents:- Shri Amit Sthalekar

O R D E R

By this O.A applicant has sought a direction to
the respondents to pass Medical Bills of Rs.813856.65/-
from 1-1-1996 to 20-3-1997 and to issue a direction
for respondents to advance an amount of Rs. 100000/-
for treatment of his wife and to pass such other order
or direction which this Tribunal deems fit and proper in
the circumstances of the case.



2. It is submitted by the applicant that he was working as 'Black Smith' with the respondent. It is unfortunate that his wife fell sick due to Heart disease in the year 1995 and is under the treatment of Dr. V.K.Jain. Due to long illness and improper treatment and lack of funds, she also suffered from attack of paralysis since 1-7-1995 for which disease she is being treated by Shri P.K.Maheshwari.

3. Grievance of the applicant in this case is that even though he had submitted the medical bills incurred on the treatment of his wife but they are not being paid to him in time as respondent no. 6 is intentionally not clearing the said bills. It is also submitted by him that since he is a Class IV ^{other} employee he has no means to spend huge amount on the treatment of his wife and had to take amount on loan from market on interest. It is further submitted by him that the bills to the extent of Rs. 13856.65 are pending with respondent no. 6 duly forwarded by the Doctors who are treating the applicant's wife but for the reasons best known to them respondents are not making the payment of said bills. Being aggrieved he had even filed a Civil Suit No. 626/96 before the Court of Munsif, Agra but the suit was dismissed on the

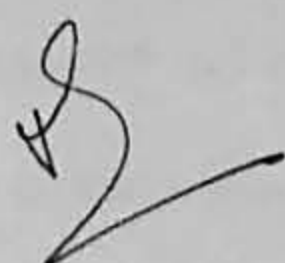


ground of jurisdiction vide order dated 13-1-1997 by the learned Munsif. Since applicant is not in a position to bear the expenses of his wife's treatment any longer he had no other option but to file the present O.A.

Applicant has annexed number of documents with the O.A to show that he had incurred the expenses on the treatment of his wife.

4. Respondents have opposed this O.A and have submitted that the allegation with respondent no. 6 is not passing the medical bills for some extraneous considerations are wrong and denied and they have given the reasons as to why the Medical bills of applicant could not be progressed namely:

- i) The medical reimbursement claims were sent to the Medical Authorities for verification vide letter dated 22-4-1996 followed by reminders dated 20-5-1996, 6.12.1996, 27-3-1997, 23-5-1997 but they still not received the verification from the Medical Authorities.
- ii) Applicant's wife is under prolong treatment for more than 2^{and} 1/2 years whereas as per Central Service Medical Attendance Rules, 1944 there should be a reasonable gap between the claim of first spell of illness for one disease and recurrence of same disease for second time. But in the present case applicant had



been been taking treatment for his wife from five different Medical Attendants at the same time without consulting those doctors, which is contrary to the instructions laid down by the Government of India, Ministry of Health O.M dated 26-3-1962, 29-2-1967, 17-4-1967 and DG PLT letter dated 20-2-1967 and 24-4-1968 as per as OPD is concerned. They have submitted

They have submitted that the duration of treatment can be only ten days which can be enhanced to 20 days by Authorities, Medical Attendant or Specialist vide Government of India O.M dated 1-1-1974. Similarly maximum period of treatment allowed from the date of detection of disease for the purpose of reimbursement claim is restricted to 24 months as per the Government of India, Ministry of Health O.M dated 10-1-1972 and 15-9-1978. They have also submitted that as per conditions laid down in Government of India O.M dated 30-1-1984 the controlling Officer concerned can reject any claim if he is not satisfied, without giving an opportunity to the claimant of being heard on this matter. They have further submitted that the bills at Sl. no. 15, 16, 17 on page 9 of the counter affidavit have been passed in full by the Audit Authority but payment has been refused by the petitioner as per Board Officers. The Medical reimbursement claim at Sl. no. 5 and 18 have been returned with some observations and balance

medical reimbursement claims could not be progressed as these are not covered under the service Medical Attendance Rule 1944, therefore, have been forwarded to the Chief Medical Officer/ Chief Medical Superintendent of SN Medical College as stated above. They have further submitted that apart from these bills applicant has submitted other bills also which are not shown in the present D.A. They were also sent for verification to the Medical Authorities and are still awaited. They have also submitted on page 13 that applicant ^{is still} giving treatment to his wife as he has sent subsequent bills also to the Department and payment of these bill will be made after receiving the verification from respective medical authorities and subject to their being admissible under the Rules.

5. Respondents have also filed Supplementary counter affidavit in which they have almost reiterated the facts as narrated above. In nut-shell, Respondent have stated that they had sent letters to the medical authority for verification of the bills or had sent the matters to the Audit Authorities for passing the bills but since they have not yet received any reply from those authorities they are ^{not} in a position to pass or release the amount to the applicant.

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6. I have heard both the counsel and perused the pleadings as well.

7. I am informed by the applicant's counsel that applicant has already retired from service in around Feb. 2003 but till date he has not been paid a single paise on account of his medical claims. Respondents have also filed Supplementary counter affidavit to show that the amount of Rs. 6919/- was already passed with regard to medical reimbursement vide letter dated 25-2-1999 but applicant refused to accept the same vide his letter dated 9-12-1998 (S.A. 1 and S.A 2). I have seen both these letters carefully. The first letter which is dated 25-2-1999 addressed to the applicant for payment of medical reimbursement claim for an amount of Rs. 6919/- with reference no. 115/34/BR-II whereas the letter said to have been written by the applicant is dated 9-12-1998 and reference to the letter dated 115/18/B&D 100. Therefore, it is not known as to how the respondents have connected the letters with the first letter. Neither reference no. is same nor the letter dated Feb. 1999 could have been answered in December 1998 itself. Therefore, there seems to be some communication gap with regard to this letter written by the applicant. Since respondents have themselves admitted that applicant had given number of



medical bills also it is possible that he might have refused to accept the amount with regard to some other bills on the ground ^{that} this case is pending.

However, without going into all these things it is seen that respondents have admitted at more than one place that some of the bills of applicant have been referred to the medical authorities for verification while others have been sent to the Audit Authorities for being passed but they have not yet received any reply thereon, therefore, the same could not be passed. They have also admitted in one of the paragraph that as and when the bills are passed payment shall be made to the applicant. It is seen that this matter is pending since 1996 and as per respondents' own letters they had taken up the matter with different authorities in the year 1997. It is unbelievable that the letters ^{have 8} ~~are~~ remained unattended to for a period of six years. If the medical authorities or the audit authorities have not responded to the letters written by the respondents they ought to have pursued the matter by deputing some responsible person so that the bills of applicant, which he is entitled in law, are passed within a reasonable time and those which are not permissible as per law according to respondents

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they ought to have been rejected by passing a speaking order under intimation to the applicant. But unfortunately no such orders have been passed by the respondents till date, as a result of which applicant has been dragged to the court unnecessarily. Therefore, keeping in view all the facts, as stated above, this O.A is being disposed of by giving a direction to the respondents to pursue the matter with the medical authorities and the audit authorities by deputing a responsible person to get the bills verified as submitted by the applicant for reimbursement and in case the same are found to be admissible in accordance with law the same shall be passed and disbursed to the applicant within a period of four months from the date of receipt of a copy of this order and those bills, which, according to respondents, are not admissible in law should be rejected by passing a speaking order giving the reasons thereon as to why they are not admissible within the same stipulated period. It is unfortunate that no orders were passed by the respondents communicating the outcome of the bills submitted by the applicant to the authorities as a result of which he had to approach the court for release of the petty amount of Rs. 13858.65. Though respondents have stated that



they have passed subsequent bills, it is not understood why they could not communicate to the applicant the outcome of the bills which were submitted by him with regard to amount which is claimed in the present O.A. Respondents were well within their rights to reject the claim of applicant in case that was not admissible as per rules but by no stretch of imagination can they be allowed to sit ^{light} ~~there~~ over the files without intimating the applicant as to whether his bill is admissible in law or not, ~~but~~ it is not known why they could not pass appropriate orders on the bills submitted by the applicant in time earlier. Since applicant has been dragged to the court for claiming the amount and he was only a class -IV employee who has since ^{been} retired also, a cost of Rs. 1000/- is imposed on the respondents in favour of the applicant.

8. The O.A is accordingly disposed of with a cost of Rs. 1000/-



Member (J)

Madhu/