

CENTRAL ADMINISTRATIVE TRIBUNAL**CHANDIGARH BENCH**

O.A.No.060/00446/2020

Order pronounced on: April 15, 2021
 (Order reserved on: 18.03.2021)



CORAM: HON'BLE MRS. AJANTA DAYALAN, MEMBER (A)

Gurbax Singh Kalra S/o Sh. Bakhat Singh aged 74 years, Income Tax officer (Retired) resident of H.No. 16-C, Dr. Kitchlu Nagar, Rajpura Road, Civil Lines, Ludhiana-141001 (Group B).

Applicant
(APPLICANT IN PERSON)

Versus

1. Union of India, Ministry of Finance & Company Affairs, Department of Revenue (Income Tax) through Chairman, Central Board of Direct Taxes, North Block, Central Secretariat, new Delhi-110001.
2. Chief Commissioner of Income Tax, Aayakar Bhawan, Rishi Valmiki Nagar, Ludhiana-141001.
3. Deputy Commissioner of Income Tax (Hdqrs) (Admn) O/o the Chief Commissioner of Income Tax, Aayakar Bhawan, Rishi Valmiki Nagar, Ludhiana-141001.
4. Administrative officer-cum-Drawing & Disbursing Officer-IV o/o Chief Commissioner of Income Tax, Aayakar Bhawan, Rishi Valmiki Nagar, Ludhiana-141001

(BY ADVOCATE: MR. SANJAY GOYAL)

.. Respondents



ORDER
HON'BLE MRS.AJANTA DAYALAN, MEMBER(A)

1. The present OA has been filed by the applicant Gurbax Singh Kalra, seeking issuance of direction to the respondents to reimburse a sum of Rs.45,000/- being package expenses incurred on treatment of his wife for breast cancer and for post-operative treatment from 7.4.2012 to 12.4.2012, along with interest @12% per annum for delayed payment.
2. In the O.A., the applicant has stated that he is a retired Income Tax Officer settled at Ludhiana. The applicant has further submitted that his wife was treated by Dr. Satish Jain, Head of Oncology, Oswal Cancer Treatment & Research Foundation, Ludhiana during 1993 to 2002 and reimbursement of such expenses were made in full by the Department. On 7.4.2012, his wife felt sudden and severe pain in right breast and was rushed to the above hospital in emergency which was also very near to his home. She was examined and operated by Dr. Satish Jain, who had now joined Mediciti Hospital, Ludhiana. She remained in the hospital from 7.4.2012 to 12.4.2012. All the laboratory/investigation tests were conducted in the hospital for which package bill of Rs.45,000/- was raised. This included cost of operation, doctor's visits, room rent, nursing, lab / investigation charges etc. However, the item-wise bifurcation was not given by the hospital nor discharge summary was given at the time of discharge. Only the invoice bill was kept by his



wife. His wife later caught further medical complications and ultimately she died on 21.2.2018.

3. The applicant has further stated that it was only during September 2019 after death of his wife that he happened to lay his hand on the bills of Rs.45,000/- for treatment of his wife during 2012.
4. The applicant had earlier approached the respondents for reimbursement of his another medical claim of Rs.5,78,313/-. But his claim was rejected on the ground that he was in receipt of fixed medical allowance and hence he was not entitled to medical reimbursement. The applicant had then approached this Tribunal through O.A.No.060/110/2019. This O.A. was disposed of on 29.5.2019 (Annexure A-8) remitting the matter back to the respondents to consider the claim of the applicant for reimbursement of medical expenses within a period of two months in the light of judicial pronouncements indicated in that order.
5. After finding the bills of Rs.45,000/- in September 2019, the applicant submitted a representation dated 3.10.2019 (Annexure A-1) for reimbursement of this amount. His claim was returned vide letter dated 22.11.2019 (Annexure A-2) for non-submission of (i) certificate of emergency treatment issued by hospital; (ii) investigation reports of treatment taken during the stay in hospital; (iii) discharge summary in original/copy issued by hospital; (iv) post facto approval for the treatment taken in the non-recognized private hospital and (v) original or copy of



break-up of hospital bill. The applicant asked for supply of these details from Ludhiana Mediways Hospital (formerly Medicity), Ludhiana (Annexure A-3). But, the applicant could get only emergency certificate signed by Dr. Satish Jain. He again submitted medical bill to the respondents along with certificate of emergency dated 9.12.2019 (Annexure A-4). His claim was again returned vide letter dated 12.2.2020 (Annexure A-5) on the ground that investigation report, discharge summary, post facto approval and break up of bill were not submitted by him. The applicant submitted a representation dated 20.2.2020 (Annexure A-6) that it is not possible for him to submit the asked for documents, even though same are not at all required, more so when earlier medical claims were allowed by the respondents in full. The applicant also stated that he has already submitted the medical emergency certificate of the concerned doctor.

6. The applicant has concluded that as his earlier bills were admitted without such documents as are being demanded from him now and his having furnished medial emergency certificate and other documents not being available at this point of time, he is entitled for the claim. In any case, persons in receipt of fixed medical allowance are still entitled for indoor treatment in private hospital in an emergency as was the case here. Hence, he is entitled for relief claimed in the O.A.
7. The respondents have contested the claim of the applicant. They have stated that the applicant was asked to submit the certificate of emergency, investigation reports,



discharge summary, post facto approval and original or copy of break-up of hospital bill. Out of these documents, the applicant has submitted only certificate of emergency and other documents are still not furnished. As and when he submits these documents, his case will be considered as per rules.

8. I have heard the applicant in person and the counsel for the respondents and have also gone through the pleadings. I have also given thoughtful consideration to the entire matter.
9. I find that the applicant has himself pleaded that the treatment of his wife was taken during 2012. Thus, cause of action, if any, arose to him during that year itself. He kept silent since then. He himself admits that it was only in September 2019 while scrutinizing papers and documents of his wife that he found package invoice bill of Rs.45,000/- pertaining to her hospitalization and operation in 2012 which he had forgotten to submit due to precarious circumstances. It was thus after more than 7 years that he submitted his medical claim to the authorities – and that too with incomplete documents. It is also important to note that it is for the applicant to keep record of expenditure incurred by him and other documents required to be kept if he wanted to claim reimbursement of medical expenditure incurred by him. In the present case, even by his own admission, he had not kept this record. Only after death of his wife and after more than 7 years of treatment he was 'surprised' to find the medical bill of Rs.45,000/- now being claimed by him.



This claim of the applicant is barred by law of limitation. He has not filed any application seeking condonation of delay. The earlier O.A. filed by him was for other claims – though for the same treatment of cancer of his wife. But it did not include this sum of Rs.45,000/- as this bill was discovered by him only in September 2019 by his own admission. Further, I am also clear that disposal of earlier O.A. on 29.5.2019 or entertaining a belated representation by the respondents does not extend the period of limitation.

10. In the case of **RAMESH CHAND SHARMA V. UDHAM SINGH KAMAL & ORS.**, (1999) 8 SCC 304, the Hon'ble Apex Court has held as under:

"7. On perusal of the materials on record and after hearing counsel for the parties, we are of the opinion that the explanation sought to be given before us cannot be entertained as no foundation thereof was laid before the Tribunal. It was open to the first respondent to make proper application under Section 21(3) of the Act for condonation of delay and having not done so, he cannot be permitted to take up such contention at this late stage. In our opinion, the O. A. filed before the Tribunal after the expiry of three years could not have been admitted and disposed of on merits in view of the statutory provision contained in Section 21(1) of the Administrative Tribunals Act, 1985. The law in this behalf is now settled, see **Secretary to Government of India v. Shivram Mahadu Gaikwad**, 1995 Supp (3) SCC 231."

11. Similarly, Hon'ble Apex Court in **STATE OF TRIPURA V. ARABINDA CHAKRABORTY** (2014) 5 SCALE 335 held that "simply by making a representation, when there is no statutory provision or there is no statutory appeal provided, the period of limitation would not get extended. The law does not permit extension of period of limitation by mere filing of a representation. A person may go on making representations for years and in such an event the



period of limitation would not commence from the date on which the last representation is decided".

12. In any case, even on merits admittedly the respondents have asked for supply of various documents/information i.e. certificate of emergency treatment issued by hospital; investigation reports of treatment taken during the stay in hospital; discharge summary in original/copy issued by hospital, post facto approval for the treatment taken in the non-recognized private hospital and original or copy of break-up of hospital bill, from the applicants so that they can process his claim. However, the applicant has not been able to supply those documents, except certificate of emergency. Thus, even otherwise, unless the applicant submits the documents asked for by the respondents, his claim for reimbursement cannot be allowed. If due to lapse of time, the applicant is unable to obtain the asked for documents due to their unavailability, the applicant is himself to blame for the same.

13. In view of all above, I find no justification in the claim of the applicant.

14. The OA is both barred by limitation and is also devoid of merits and is dismissed.

15. There shall be no order as to costs.

**(AJANTA DAYALAN)
MEMBER (A)**

Place: Chandigarh
Dated: April 15, 2021.

HC*