

CENTRAL ADMINISTRATIVE TRIBUNAL

CHANDIGARH BENCH

O.A.No.060/00563/2020

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. Pr. Commissioner of Income Tax-cum-Head of Office o/o the Chief Commissioner of Income Tax, Aayakar Bhawan, Rishi Valmiki Nagar, Ludhiana-141001.
4. Joint Commissioner of Income Tax (Hdqrs) (Admn) o/o Chief Commissioner of Income Tax, Aayakar Bhawan, Rishi Valmiki Nagar, Ludhiana-141001.
5. Deputy Commissioner of Income Tax (Hdqrs) (Admn) O/o the Chief Commissioner of Income Tax, Aayakar Bhawan, Rishi Valmiki Nagar, Ludhiana-141001.
6. Administrative Officer-cum-Drawing & Disbursing Officer-IV o/o Chief Commissioner of Income Tax, Aayakar Bhawan, Rishi Valmiki Nagar, Ludhiana-141001
7. Zonal Accounts Officer (CBDT), Grand Walk Mall, Ferozepur Road, 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 balance amount of Rs.1,77,135/- deducted by the respondents out of total medical expenses of Rs.5,78,313/- incurred by him on treatment of his wife Late Smt. Surjit Kaur with interest @12% per annum for delayed payment with heavy cost & compensation.
2. In the O.A., the applicant has stated that he is a retired Income Tax Officer settled at Ludhiana. The applicant submits that his wife underwent open heart surgery and cancer treatment for which he incurred in all a sum of Rs.5,78,313/-. He had submitted original bills for treatment of his wife along with essentiality certificates.
3. The applicant approached the respondents for reimbursement of his medical claim. It was rejected on the ground that he was in receipt of fixed medical allowance, so he is not entitled to medical reimbursement. The applicant then approached this Tribunal through O.A.No.060/110/2019 claiming reimbursement of Rs.5,78,313/- on account of treatment of open heart surgery and cancer of his wife. This O.A. was disposed of on 29.5.2019 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.



4. The applicant has pleaded that the respondents processed his claim and the case was put up to respondent no.3 for ex-post facto sanction through respondent no.4. In the noting, it was mentioned that the applicant has enclosed original bills for treatments and essentiality certificates for undergoing treatment in hospitals. The ex-post-facto sanction for medical reimbursement of Rs.5,78,313/- was given by the concerned authority. The respondents have, however, reimbursed a sum of Rs.4,01,178/- only leaving a balance amount of Rs.1,77,135/- claimed by the applicant in the instant O.A.
5. The respondents have given detailed breakup of medical reimbursement of the applicant at Annexure A-8. A perusal of the same indicates that they have basically restricted the amount to CGHS rates and in absence thereof to AIIMS rates. There is deduction of some amounts due to medical procedure not having been defined and original bill as well as cash memo not being available.
6. The plea taken by the applicant is that he is entitled to full reimbursement and deduction of amount of Rs.1,77,135/- is not correct as there is no fault on his part. He is also relying on this Tribunal's order in his earlier O.A.No.110 (supra) whereby according to him, he is entitled for full reimbursement. He has also stated that he had submitted full documents/bills to the respondents and as such, they cannot be allowed to deduct the indicated amount and be directed to reimburse the claim in full.



7. The respondents have contested the claim of the applicant. They have stated that the direction of this Tribunal was to consider the medical claim of the applicant. The medical claim of the applicant was considered and medical reimbursement has been allowed as per rules contained in Office Memorandum dated 11.6.2013 (Annexure R-1). All the medical claims of Central Government employees are reimbursed as per the rate list of the CGHS. The respondents have further stated that ZAO, CBDT, Ludhiana had returned the bill without restriction as the work of restriction and creation of bill is to be done by DDO office. ZAO has to pass the bill if restricted and created as per rules.
8. I have heard the applicant in person and the counsel for respondents and have also gone through the pleadings. I have also given thoughtful consideration to the entire matter.
9. The issue in this O.A. is rather limited. The applicant has claimed that he is entitled to medical reimbursement in full and it cannot be rejected by the respondents on technical grounds. On the other hand, the respondents have pleaded that the claim of applicant has been processed and approved in terms of the instructions dated 11.6.2013 (Annexure R-1).
10. I find that these instructions of 11.6.2013 provide that reimbursement of medical expenses is to be allowed as per prevailing non-NABH CGHS rates as applicable to a CGHS covered city and non-NABH rates applicable to the



nearest CGHS covered city in case of non-CGHS city, as the case may be, or the actual, whichever is less. Similarly, the medical treatment in cases where package rates are prescribed under CGHS, non-NABH rates of the CGHS covered city and non-NABH rates of the nearest CGHS city in case of non-CGHS covered city or the actual, whichever is less are applicable. It is thus clear that as per these instructions, reimbursement of medical expenses is to be restricted to CGHS rates. It is so for CGHS covered cities as well as for cities not covered by CGHS. It is also so where item-wise rates are prescribed or the package rates are prescribed. The reimbursement in all cases is to be restricted to CGHS rates. This basic principle has been followed in the present case as well. On the other hand, the applicant is claiming for full reimbursement which is not permissible as per clear instructions universally applicable to all Central Government employees.

11. I also find that there is a specific pleading on the part of the respondents that they have considered and passed the medical claims of the applicant in terms of these instructions. This claim of the respondents has not been rebutted by the applicant. He has not even filed a rejoinder and has not contested this claim during arguments either. There is no challenge to these instructions contained in O.M. dated 11.6.2013 (Annexure R-1). As such, I do not find any ground made out for interference in the action taken by the respondents.
12. I also find that as per break-up given by the respondents in Annexure A-8, most of the claims of the applicant have



been settled as per CGHS rates. In absence thereof, it is restricted to AIIMS rates only. In some cases, the amount has been declined for want of original bill and cash memo or the 'type of procedure not defined'. I also find from the details given in the breakup in Annexure A-8 that total amount on this account works out to only Rs.10,060 out of total medical claim of over Rs.5 lakhs. Even application of AIIMS rates in absence of CGHS rates is in respect of claim of Rs.23,000/- only. For as much as Rs.56,000/-, the original bills and cash memos were not submitted by the applicant. All the other deductions are only due to application of CGHS rates. The applicant has not denied the averments made by the respondents in their written statement. He has also not given any specific rebuttal for the specific reasons for restriction given by respondents in the breakup of his claim. He is only generally pleading that he is entitled for full reimbursement. However, in the face of these facts, I am of the clear view that there is no illegality on the part of the respondents in passing the medical reimbursement claim of the applicant as per instructions dated 11.6.2013. The amount has been passed based on these instructions which are universally applicable to all Central Government servants and are not irrational or arbitrary.

13. Besides, I find that the applicant is heavily relying on this Tribunal's order dated 29.5.2019 to infer that as per these orders, he was entitled for full reimbursement. However, I find that this is not so. The Tribunal in its earlier order dated 29.5.2019 (Annexure A-2) only remitted the matter



back to the respondents 'to consider the claim of the applicant' in the light of indicated judicial pronouncements. The only issue there was not about rates to be applied or restriction to be imposed, but only that mere availing of Fixed Medical Allowance does not disentitle the applicant from consideration of his indicated claims for indoor treatment of his wife in a recognized hospital in an emergency. The Tribunal nowhere ordered full reimbursement. It ordered only consideration of the claim of the applicant. That having been done, the applicant has no case for full reimbursement in terms of this Tribunal's earlier order.

14. In view of all above, I find no justification in the claim of the applicant.
15. The OA is devoid of merits and is dismissed.
16. There shall be no order as to costs.

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

Place: Chandigarh
Dated: April 15, 2021

HC*