



**Central Administrative Tribunal
Jammu Bench, Jammu**

T.A. No.4900/2020
(SWP No. 2655/2018)

This the 9th day of September, 2021

Through Video Conferencing

**Hon'ble Ms. Manjula Das, Chairman
Hon'ble Mr. Anand Mathur, Member (A)**

Dr. Kiran Bakshi, Aged 59 years,
W/o Raman Awasthi,
R/o. 11 No. 4, Sector No.4,
Channi Himmat Jammu

...Applicant

(Through Mr. G.S. Thakur)

Versus

1. State of Jammu and Kashmir
Through Commissioner/Secretary to Government,
Higher Education Department,
Civil Secretariat, Jammu.
2. Director College,
Higher Education Department
Jammu

...Respondents

(Through Mr. Amit Gupta, Additional Advocate General)

ORDER (ORAL)

Hon'ble Ms. Manjula Das, Chairman:

Succinctly, the case of the applicant is that while she was serving as Principal, Government College of Education, Jammu, she suffered with life consuming ailment and was



critically ill, which required the immediate treatment. The oncologist of the Government Medical College, Jammu, who was treating the applicant, referred her to Rajiv Gandhi Cancer Institute & Research Centre, New Delhi, for specialized treatment / diagnostic investigations outside the State, as the same facility was not available in the said hospital. She thereafter visited the Rajiv Gandhi Cancer Institute & Research Centre for specialist treatment and incurred an amount of Rs.7,11,205/-. She submitted her claim for reimbursement. However, vide the impugned order dated 08.03.2018, her claim sanctioned, subject to the condition that the reimbursement in case of the Rajiv Gandhi Cancer Hospital, New Delhi shall be restricted at the rates applicable in All India Institute of Medical Sciences (AIIMS), New Delhi and PGI Chandigarh. Against the said order, she preferred representation on 23.04.2018 seeking to reimburse the full amount incurred on her treatment. When she got no response from the respondents, the applicant filed SWP No.2655/2018 before the Hon'ble High Court of Jammu & Kashmir, seeking the following reliefs:

“(a) Writ of Certiorari quashing the Government Order No. 153-HE of 2018 dated 08.03.2018 issued by the respondent no.1 by virtue of which the sanction has been accorded for medical reimbursement claim in favour of the petitioner by restricting the claim at...



b) Writ of Mandamus commanding the respondent no.1 to release / reimburse the medical claim of the petitioner in terms of Jammu & Kashmir Civil Services (Medical Attendance and Allowance) Rules, 1990, issued under SRO 203 for an amount of actual expenses incurred and being incurred by the petitioner for undergoing treatment at Rajiv Gandhi Cancer Institute and Research Centre, New Delhi.

c) With further writ of mandamus commanding the respondent no.1 to substitute the order of sanction for reimbursement of medical treatment at the rates applicable in the medical Institution of treatment with the direction to the Drawing and Disbursing Officer (DDO) under whose control the petitioner is working.

d) Any other writ or direction as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.”

2. In support of the claim, learned counsel for applicant referred to the judgment of **State of Jammu & Kashmir v. Dr. Sakhi Willayat**, (2004) Vol. 3 JKJ 412 to contend that there is no occasion for the respondents to restrict the rates to a particular institution.

3. On the other hand, the respondents refuted the claim of the applicant and submitted that the claim of the applicant was rightly restricted to the rates applicable in AIIMS and PGI, Chandigarh, in terms of Rule 6 of Jammu & Kashmir Civil Services (Medical Attendance-cum-Allowances) Rules, 1990.



4. The SWP has since been transferred to the Tribunal in view of reorganization of the State of Jammu & Kashmir and renumbered as T.A. No.4900/2020.

5. Today, we heard Mr. G S Thakur, learned counsel for applicant and Mr. Amit Gupta, learned Additional Advocate General.

6. The Hon'ble Supreme Court in **Dr. Sakhi Willayat's** case (supra) has observed as under:-

“7. Perusal of the Rule 6 shows that it nowhere indicates that prior sanction is required. However, we are of the view that the Government employee who has to get himself or his dependent treated outside the country should meet the requirement of the rules. But in emergent cases it may not be possible because of the nature of the ailment, first to obtain sanction and then proceed for treatment. The appellants while framing rules, keeping in view these contingencies of ailment, has not specifically provided in the Rules for obtaining prior sanction. Another situation is also contemplated that while the dependent/ beneficiary is residing outside the State and develops some ailment he can get himself treated without prior sanction. Rule 6(5) relevant for the purpose is extracted below:-

Treatment outside the State:- Where a beneficiary resides temporarily outside the State and falls ill there suddenly and is advised admission in a hospital, he will, on production of necessary vouchers and certificates, be allowed reimbursement of hospital charges including cost of drugs and charges for investigation, provided it is recommended by the director Health Services of the State after being satisfied that the beneficiary had suddenly fallen ill outside the State where he resides temporarily



and was not already suffering from it before his departure from his home town. The Director Health Services will certify that drugs and services charged for are reasonable and the beneficiary could not wait for treatment in his home town.”

7. From the perusal of the aforesaid judgment, it is seen that nowhere it is indicated in Rule 6 Jammu & Kashmir Civil Services (Medical Attendance-cum-Allowances) Rules, 1990 that prior sanction is required for treatment outside the State. However, in the present case, the oncologist of the Government Medical College, Jammu, who was treating the applicant, referred her to Rajiv Gandhi Cancer Institute & Research Centre, New Delhi, for specialized treatment / diagnostic investigations outside the State since such a facility was not available in the said hospital.

8. In these circumstances, the ends of justice will be duly met, if an opportunity is provided to the applicant to prefer a detailed representation to the respondents, enclosing therewith all the relevant medical bills, etc., who, in turn, shall pass orders thereon, within a timeframe.

9. Accordingly, the T.A. is disposed of with a direction to the applicant to prefer a comprehensive representation to the respondents, enclosing all the relevant medical papers,



etc., within a period of one month from the date of receipt of a copy of this order. On receipt of such a representation, the respondents shall consider the same and pass a speaking order, taking note of the aforesaid judgment of the Hon'ble Supreme Court, within four months thereafter, under intimation to the applicant.

There shall be no order as to costs.

**(Anand Mathur)
Member (A)**

**(Manjula Das)
Chairman**

September 9, 2021
/sunil/jyoti/mk