



**Central Administrative Tribunal
Principal Bench, New Delhi**

O.A. No. 2207/2020

**Order reserved on: 22.07.2021
Order pronounced on: 26.08.2021**

(Through Video Conferencing)

Hon'ble Mr. Mohd. Jamshed, Member (A)

Sunil Arora, aged about 59 years,
S/o Late Sh. Kuldip Singh Rai,
R/o 716, Vikas Kunj, Vikaspuri,
New Delhi – 110018.

...Applicant

(By Advocate: Mr. Manindra Dubey)

Versus

1. Union of India,
Through its Secretary,
Ministry of Health & Family Welfare,
Department of Health & Family Welfare,
Room No. 753-A, Nirman Bhawan,
New Delhi – 110011.

2. The Addl. Director,
CGHS, Rajendra Nagar,
New Delhi – 110060.

...Respondents

(By Advocate: Mr. R. S. Rana)



ORDER

Mohd. Jamshed, Member (A):

The applicant's father was a CGHS beneficiary and pensioner. When he was 85 years old, he was said to have suffered a paralytic attack on 09.09.2013 and was admitted to Bhatia Global Hospital & Endo Surgery Institute, Ambika Vihar, New Delhi. After his treatment in the said hospital, he was discharged on 19.09.2013. He paid an amount of Rs. 63,080/- towards medical expenses in the hospital and Rs. 17,709/- towards medicine etc. The bills amounting to Rs. 80,789/- were submitted by him for reimbursement. The respondents reimbursed only Rs. 41,038/-. On 10.04.2014, the father of the applicant was again admitted to Sri Balaji Action Medical Institute, Paschim Vihar, New Delhi. An amount of Rs. 1,10,469/- was incurred towards medical expenses in the said hospital and the bills for the same were submitted for reimbursement. The respondents reimbursed only Rs. 57,760/-. On 15.04.2014, the applicant was shifted to Kalra Hospital, Kirti Nagar, New Delhi, a CGHS empanelled hospital. An amount of Rs. 2,87,887 was incurred towards medical expenses in the said hospital and an amount of Rs. 2,50,070/- was reimbursed to the applicant.



2. The applicant is aggrieved of the fact that out of the total expenditure amounting to Rs. 4,79,145, his father received only Rs. 3,48,868/- as reimbursement. The balance amount of Rs. 1,30,277/- was not reimbursed. The applicant's father expired on 19.01.2015. The applicant has since been making representations for the reimbursement of the balance amount. It is submitted by the applicant that he is not satisfied with the reply given by the respondents and that in terms of various rules and judgments passed by this Tribunal, the Hon'ble High Court and the Hon'ble Apex Court, his father was entitled for the reimbursement of the entire amount. The impugned order issued by the respondents dated 06.02.2020, rejecting the representation of the applicant has been challenged in the present OA and directions have been sought to the respondents for payment of balance amount of Rs. 1,30,277/- with interest.

3. The applicant contends that despite his several representations and information sought through Right to Information (RTI) Act, 2005, the respondents have not agreed to grant reimbursement of the balance amount of Rs. 1,30,277/-. He submits that the respondents have stated that although his father was a CGHS beneficiary, he undertook treatment in a private non CGHS empanelled hospital and, therefore, not entitled for full reimbursement. In support of his



claim, he has also relied upon orders and judgments in OA No. 21/153/2019 dated 25.06.2019 titled **B. Prasad Rao Vs. UOI** of Hyderabad Bench of this Tribunal, C.W.P. No. 4415/2002 dated 13.07.2004 titled **Milap Singh Vs. UOI & Anr.** of Hon'ble Delhi High Court and W.P. (Civil) No. 694/2015 titled **Shiva Kant Jha Vs. Union of India** of the Hon'ble Apex Court.

4. The respondents filed a counter affidavit opposing the OA. It is submitted that the applicant's father was a pensioner and a CGHS beneficiary. He was admitted to Bhatia Global Hospital and Endo Surgery Institute, Ambika Vihar, New Delhi which is a private and non CGHS empanelled hospital and also subsequently in Sri Balaji Action Medical Institute, Paschim Vihar, New Delhi which is also a private and non CGHS empanelled hospital. He was, thereafter, admitted to Kalra Hospital, Kirti Nagar, New Delhi. Out of these three, only Kalra Hospital, Kirti Nagar is a CGHS empanelled hospital. Despite taking treatment in private hospitals without any referral or emergency certification and having access to CGHS empanelled hospital with facilities equal to almost all the private hospitals, the respondents have considered his case and reimbursed the amount even for the non CGHS empanelled hospitals as per the rules. An amount of Rs. 2,50,070/- was also reimbursed to the applicant for the



medical expenses incurred at Kalra Hospital, Kirti Nagar, New Delhi, a CGHS empanelled hospital.

5. The respondents also submit that the applicant has been duly advised about the details of reimbursement in response to his representations and also RTI queries. The respondents contend that the judgments quoted by the applicant have different facts including many of the applicants therein having been treated in CGHS empanelled hospitals. The respondents further submit that the total amount reimbursed to the applicant is well within the rules which are applicable to all CGHS beneficiaries.

6. Today, I heard Mr. Manindra Dubey, learned counsel for the applicant and Mr. R. S. Rana, learned counsel for the respondents, through video conferencing.

7. The applicant's father was a CGHS beneficiary and a pensioner. It is a fact that he was entitled for medical treatment being a CGHS beneficiary post retirement. When he was 85 years of age in the year 2013, he took treatment in Bhatia Global Hospital and Endo Surgery Institute, Ambika Vihar, New Delhi which is a private and non CGHS empanelled hospital. Later on, in the year 2014, he took treatment in Sri Balaji Action Medical Institute, Paschim Vihar, New Delhi which is also a private hospital and not empanelled under



CGHS. Thereafter, he was admitted to Kalra Hospital, Kirti Nagar, New Delhi which is a CGHS empanelled hospital. It is also on record that during this period of treatment, the applicant's father was not in possession of CGHS card, which he subsequently obtained in May, 2014. The reimbursement claims submitted by the applicant's father, were examined and reimbursements for all the three periods of treatment in three different hospitals were considered and reimbursements were allowed in terms of prescribed rules.

8. It is also a fact that the respondents have not only reimbursed the expenditure incurred by the applicant's father while he was admitted in Kalra Hospital, Kirti Nagar, New Delhi which is a CGHS empanelled hospital, but also for two other hospitals, not empanelled under CGHS. As far as the amount reimbursed is concerned, the respondents have considered those items which are prescribed in terms of rule for reimbursement for such treatments. The laid down procedure adopted by the CGHS is applicable to all CGHS beneficiaries. The applicant is aggrieved by the fact that the respondents have not reimbursed the entire expenditure incurred by his father towards his treatment. He is also not satisfied with the reimbursement made by the respondents of the substantial amount against all the three reimbursement



claims. He has relied upon judgments quoted above in support of his claim for full reimbursement.

9. A perusal of judgments passed by the Hon'ble Apex Court, Hon'ble High Courts and the Tribunal indicates that the applicants therein have been provided relief on the basis of the facts pertaining to individual applicants under different circumstances. The applicant has relied upon a few of these judgments. In the case of **Milap Singh Vs. UOI & Anr.** (Supra) of the Hon'ble Delhi High Court, it is obvious that the applicant therein was a CGHS beneficiary and he was admitted in a CGHS empanelled hospital. In the case of **Shiva Kant Jha Vs. Union of India** (supra) of the Hon'ble Apex Court, it had been clarified that the judgment is confined to that case only. This Tribunal in OA No. 3205/2018 dated 09.05.2019 has rejected the applicant's claim in light of CGHS having considered the same in terms of prescribed rules. In that order, reference was also made to Hon'ble Apex Court judgment in the case of **State of Punjab and Ors. Vs. Ram Lubhaya Bagga and Ors.**, (1998) 4 SCC 117. The operative para of the OA No. 3205/2018 decided on 09.05.2019, reads as under:-

“5.2 Learned counsel for the respondents argued that for this kind of ailment, which has been going on for some time, the applicant should have gone to the hospital prescribed for Liver Transplant by BSNL. However, he chose to go to the Indraprastha Apollo Hospital. Secondly, there was no



emergency. At the same time, the rules prescribed for reimbursement are only for certain types of indoor treatment surgeries etc. as per CGHS guidelines and the rules also govern the rates on which the reimbursement can be made towards medical expenses to the employees. In support of their arguments, the learned counsel of the respondents have relied upon the judgment of Hon'ble Supreme Court in the case of **State of Punjab and Ors. Vs. Ram Lubhaya Bagga and Ors.**, (1998)4 SCC 117. The relevant paras of the judgment are as under:-

“29. No State of any country can have unlimited resources to spend on any of its project. That is why it only approves its projects to the extent it is feasible. The same holds good for providing medical facilities to its citizen including its employees. Provision of facilities cannot be unlimited. It has to be to the extent finance permit. If no scale or rate is fixed then in case private clinics or hospitals increase their rate to exorbitant scales, the State would be bound to reimburse the same. Hence we come to the conclusion that principle of fixation of rate and scale under this new policy is justified and cannot be held to be violative of Article 21 or Article 47 of the Constitution of India.”

10. The ratio of this judgment makes it very clear that it is the responsibility of the State to give the best possible health facilities not only to its serving employees but also to retired government employees and pensioners and normally no case for reimbursement be denied. At the same time, CGHS claims are governed as per certain prescribed rules and regulations. These are not only for pensioners but also for serving employees and the reimbursements are made on the basis of these laid down procedures and regulations. In the present case also, the reimbursement claim made by the applicant's father were duly scrutinized and the reimbursement was made not only for CGHS empanelled private hospital, but also for non empanelled private hospitals despite the fact that during



the period of treatment the applicant father was not in possession of even the CGHS card. It is also a fact that the treatments taken by the applicant's father in 2013-2014, were treatments which had not been taken in emergency. The applicant's father has also expired in the year 2015.

11. In view of the above, the applicant's claim for reimbursement of the balance amount is not tenable. The respondents have reimbursed the amount as due to the applicant's father even for the treatments taken in non CGHS empanelled hospitals in terms of the rules and procedures of CGHS governing such claims. In view of the above mentioned, the claim of the applicant for reimbursement of the full amount has no merit. The OA is accordingly dismissed. There shall be no order as to costs.

**(Mohd. Jamshed)
Member (A)**

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