

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH, ALLAHABAD

Original Application No: 1291 of 1992

Ex-Capt. S.C.Gulati ..... Applicant.  
Versus  
Union of India & ors. .... Respondents.

Hon'ble Mr. S.Das Gupta, Member-Administrative

In this O.A. No. 1291 of 1992, filed under Section 19 of the Administrative Tribunal Act, 1985, the applicant has prayed that the respondents be directed to pass the bill submitted by the applicant for the reimbursement of medical expenses amounting to Rs. 829/- together with compensation Rs. 5,000/- <sup>for</sup> the inconvenience suffered by him and another Rs. 5,000/- as a cost of litigation together with interest thereon.

2. Briefly stated, the facts of the case are that the wife of the petitioner was admitted in Military Hospital on 4.2.1987 and an emergency operation was performed. The applicant paid a sum of Rs. 126/- as the expenses incurred for this treatment and claimed reimbursement of the same. Similarly, his daughter fell sick while being examined by an eye specialist in the Military Hospital and had to be admitted in the Intensive Care Unit ward. As a result of the treatment, the applicant had to incur a total expenditure of Rs. 693/- and submitted a bill for reimbursement of the same. None of these two bills were passed by the respondents. He submitted a representation requesting for the reimbursement of the medical expenses incurred by him but to no avail.



3. In their Counter Affidavit, the respondents have resisted the claim of the petitioner and have contended that the Military Hospital, not being a recognised hospital for medical treatment of the Central Government employee and their family members in terms of the Medical Attendance Rules, the petitioner was asked to furnish a certificate that the kind of treatment given to his wife and daughter was not available in Government Hospitals which exist in that station. Since the petitioner failed to furnish such a certificate, the reimbursement claims could not be allowed.

4. The petitioner's case is that the Ministry of Health and Family Welfare has given a discretion to the Government servants for taking their family members for treatment to Government Hospitals ~~and~~ or ~~not~~ to private hospitals. By the O.M. No. S-14012/9175-MC dated 23.2.1977, 7.5.1979 and 18.6.1982. The Military Hospital being Government hospital, is recognised under the Medical Attendance Rules.

5. *From the* reference to the office memorandum cited by the applicant, which have been reproduced in the Suamy's compilation of Medical Attendance Rules, it appears that ~~these~~ determine the ~~feeling~~ on the various items of treatment where admission is obtained in case of emergency in any private medical institution. Since it is not the case of the petitioner that he admitted his family members in private medical institution, these office memoranda ~~are~~ are evidently not applicable to his case. However, it is seen from




Swamy's compilation of Medical Attendance Rules that these office memoranda form ~~Annexure~~ <sup>to</sup> the Rules relating to reimbursement in emergent cases. A perusal of this Rule makes it clear that where the Ministry/Head of the departments are satisfied that the circumstances of the case warranted medical attendance/treatment being had either from Railways/Military/Factory/Local Boards/District and Municipal Boards, Local firms and Panchayat hospitals or from Doctors attached there<sup>to</sup> or from private <sup>practitioners</sup> ~~partners~~ in the absence of Government/recognised hospitals or Doctor within a reasonable distance from the place where the patient fell ill, they may allow refund of medical expenses in relaxation of the provisions of the Medical Attendance Rules. It is therefore, clear that in order to bring his claims within the purview of the Rules relating to emergent cases, the petitioner must satisfy the ministries/heads of the department that the circumstances of the case warranted treatment in the Military Hospital and that there was no Govt. hospital within a reasonable distance from the place where the patient fell ill. By the petitioner's own averment, the Military Hospital is 7 Kms. from the residence, whereas Ranchi Medical College is 14 Kms. away. He has also mentioned in his petition that the Military Hospital is more accessible as Military transport plies <sup>between</sup> Kokar-Deepatoli <sup>and</sup> Namkum and that they are much more helpful to the cause of Ex-service-man. Whether or not, the distance of the Civil hospital from the residence of the applicant is a reasonable one or not can only be determined by the respondents with reference to the nature and



severity of the ailment in each case. The Court cannot substitute its own discretion in the matter for that of the authorities to whom the power has been delegated in this regard. It <sup>does</sup> ~~is~~ not however, appear~~ed~~ from the records that the respondents have applied their mind to this aspect of the matter and have come to a decision as to whether the reimbursement claims of the petitioner would come within the purview of the Rules relating to emergent cases and can be admitted in relaxation of the normal Medical Attendance Rules.

6. In the above view of the matter, the respondents are directed to consider the claims for the medical reimbursements preferred by the applicant in the light of the Rules relating to emergent cases and decide whether such Rules can be invoked in these cases and if, so, to what extent. Such a decision shall be taken with proper application of mind keeping in view the nature and severity of ailment in each case and a reasoned order shall be passed within a reasonable time preferably within 3 months from the date of communication of this order.

7. The petition is disposed of with the above direction leaving the parties to bear their costs.

  
Member-A

Allahabad Dated: 15.11.1993

/jw/