

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH ALLAHABAD.

Civil Misc. Applications No.1905, 1906 of 2003.

IN

Original Application No.644 of 2002.

Allahabad this the 18th day of Dec 2003.

Hon'ble Mr. A.K. Bhatnagar, Member-J.

Bhawani Shanker
son of late Raj Kishor Lal
resident of House No.S-15/144-40,
Lohia Nagar, Ashapur, Sarnath,
District Varanasi.

.....Applicant.

(By Advocate : Sri R.L. Yadav/Sri M.K. Srivastava)

Versus.

1. Union of India,
Ministry of Railway,
(Railway Board) New Delhi.
2. General Manager (Health),
North East Railway, Gorakhpur.
3. Chief Medical Superintendent,
Divisional Hospital, North Eastern
Railway, Varanasi.

.....Respondents.

(By Advocate : Sri Anil Kumar)

O_R_D_E_R.

Misc. Application No.1905 of 2003 alongwith
affidavit has been moved by the learned counsel for the
applicant to revive the O.A. No.644/02 and to restore it
to its original number.

2. O.A. No.644/02 was disposed of by order dated
10.01.2003. The following order was passed:-

"This O.A. is disposed of by giving a direction to
the respondents to decide the applicant's appeal
by passing a reasoned and speaking order within a
period of 2 months from the date of receipt of
a copy of this order under intimation to the
applicant. It is made clear that in case the
applicant is still aggrieved, he would have

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liberty to get the O.A. revived by filing an application. O.A. disposed off".

3. O.A. No.644/02 under reference has been filed seeking the following relief(s):

- "(1) The respondents may be directed to quash the order dated 30.10.2001 and order dated 18.12.2001 passed by the Chief Medical Superintendent, Divisional Hospital, North East Railway, Varanasi.
- (ii) The respondent may be directed to pay the entire claim of Rs.14,865.85 P towards the medical treatment of Smt. Shanti Devi, the wife of the applicant for the period from 06.07.2000 to 03.10.2001 in Banaras Hindu University Hospital, Varanasi and in future also the opposite party No.3 may be directed to reimburse the medical expenses to Smt. Shanti Devi wife of the applicant.
- (iii) The respondent No.2 General Manager (Health) North East Railway, Gorakhpur may be directed to decide the representation/appeal of the applicant dated 23.03.2002 and the reminder sent on 08.04.2002".

2. Learned counsel for the applicant submitted that his claim was for medical reimbursement to the tune of Rs.14,866/- has been released by order dated 10.04.2003 (Annexure 2 to the M.A.). However, the applicant is aggrieved by the direction of respondents that he will have to approach the Railway Hospital for reference each time, in case he approaches the recognised Hospitals for the treatment. Learned counsel for the applicant placed the order of Railway Board No.647 in which there is reference of the order dated 09.09.1971 by which the condition imposed by respondent No.3 is not as per Rules and is illegal. Although the amount of Rs.14,866/- for the period from 06.07.2000 to 03.10.2001 has been approved by respondents but, with a rider that no future payment will be reimbursed if the reference is not obtained from the Railway Hospital vide order dated 10.04.2003 (Annexure 2 to the affidavit).

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The abovementioned order was passed by respondent No.3 and in the order it was also clarified that future reimbursement amount will not be entertained without any reference letter, filed as Annexure 3 to the affidavit. It is further submitted by applicant's counsel that Smt. Shanti Devi wife of applicant is still continuing her treatment in the Banaras Hindu University Medical College on the basis of reference letter dated 05.09.1998. Learned counsel for the applicant finally submitted that the treatment of the applicant's wife is continuing in the aforesaid hospital which is one of the recognised hospitals for the treatment of Railway employees as per letter dated 26.02.2001 Annexure 4 to the O.A.

3. Learned counsel for the applicant placed before me the order of Railway Board No.647 published in the Indian Railway Medical Manual Vol-1 third Edition-2000 and invited my attention on 647 (2) which is for convenience sake is reproduced below:-

"647(1)....(2). Consent of the Authorised Medical Officer is not necessary in the case of family members and dependent relatives when they go to one of the recognised hospitals. In such cases, the counter-signature on the bills or of the receipts (where the Bill system is not in vogue and receipts are issued for payments), by the Superintendent or other head of the hospital will be regarded as sufficient".

4. Relying on this provision, learned counsel for the applicant submitted that there is absolutely no need for further reference from the Railway hospitals for getting treatment in the duly recognised hospital.

5. The applicant has further prayed for the following reliefs by amendment application No.1906/03.

"(a) To quash the order dated 10.04.2003 Annexure 2 to the affidavit.

(b) To issue a direction to pay the claim of Rs.19,619.43/- towards the medical treatment of Smt. Shanti the wife of the applicant for the

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period from 04.10.2001 to 09.04.2003 in Banaras Hindu University Hospital, Varanasi. With further direction to respondents No.2 and 3 for not to compel the applicant to get the reference letter from the C.M.O Divisional Hospital, N.E Railway, Varanasi".

6. Resisting the claim of the applicant, respondents have filed counter affidavit alongwith Delay Condonation Application No.3635/03, M.A. No.3636 of 2003 for dismissing the revival application and M.A. No.3637/03 for dismissing the amendment application moved by applicant and invited attention of the Tribunal on para 4 of the Counter, justifying the order passed by the Chief Medical Director, Gorakhpur vide order dated 10.04.2003 and further contended that the order dated 10.04.2003 has been passed as per extant Rules as provided in Rule 647 of Indian Railway Medical Manual Vol.1. Learned counsel for the respondents further submitted that the applicant has been continuing on a reference letter pertaining to the year 1998 and has not taken re-reference from the Railway Hospital any further, which is required for the concerned Railway Hospital as to know the progress of the patient and to disburse the medicines if available in the Railway Hospital. The sole object is only to know the present condition of the patient and to provide the medicines which are available in the Railway Hospital. If the patient purchases the medicines from outside which are available in the hospital, it will cause unnecessary burden on the department. The applicant has already been informed repeatedly for obtaining the fresh reference from the Railway Hospital before submitting any reimbursement claim but the applicant has taken it as a right for ever to get the medical treatment of his wife in the recognised hospital without having any re-reference from the Railway hospital. It is further submitted that the claim of the applicant for reimbursement have been sympathetically dealt with and due payments were made with request to obtain reference letter from the Hospital.

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7. The applicant filed rejoinder to the counter filed by the respondents and reiterated the facts given in the O.A.

8. I have heard counsel for the parties and carefully perused the pleadings and record available before me.

9. It is not disputed that the Banaras Hindu University Hospital, Varanasi is a recognised hospital of the concerned Railway. The only controversy which needs to be resolved is, whether any further re-reference is necessary to be obtained from the Railway Hospital for the treatment in the recognised Hospital in case he has already been referred once for the treatment of continuing disease by reference letter dated 05.09.1998 in the light of Rule 647 (2) of I.R.M.M. Vol.(1).

10. In the rejoinder affidavit filed by the applicant, he has categorically stated that the respondents have deliberately not mentioned the part-2 Rule 647 which clearly supports the case of the applicant.

11. I have gone through para 2 Rule 647 under head reimbursement of I.R.M.M. Vol-1.

12. After perusal of records and considering all facts and circumstances of the case and submissions advanced by the counsel for the parties, I am of the view that no useful purpose will be served to revive the O.A. No.644/02 as the relief claimed have already been granted by the respondents. It has almost become infructuous, as far as reliefs No.2 and 3 are concerned, through M.A. No.1905/03, the applicant has taken the plea that the re-reference is not necessary to be obtained from the Railway Hospital after it has been

referred for the same disease once and the respondents ought to have considered it in the light of Rule 647 part 2 of I.R.M.M. In my considered view the M.A. can be finally disposed of with a direction to General Manager (Health) N.E. Railway Gorakhpur to decide this controversy in the light of Rule 647 (2) of I.R.M.M.

13. In view of the above discussions, M.A. No. 1905/03 stands disposed of finally with a direction to the applicant to file a fresh representation to respondent No.2 within a period of one month from the date of receipt of a copy of this order, which shall be decided by respondent No.2- General Manager (Health) North Eastern Railway, Gorakhpur within a period of six weeks from the receipt of representation filed by the applicant keeping in view the provisions contained in Rule 647(2) of Indian Railway Medical Manual Part 1, so that the controversy of re-reference is resolved for future.

14. The applicant may also file his representation regarding the new reliefs claimed in the Misc. Amendment Application No.1906/03, as the reliefs claimed constitute a fresh cause of action, before the competent authority if so advised with a copy of the order of this Tribunal to facilitate the process of deciding the representation expeditiously.

15. With the above directions, both the Misc. Applications stand disposed of. No order as to costs.


Member (J)

Manish/