

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Original Application No. 831/2002

Date of Decision 25/2/02

A. S. Srivastava Applicant(s)

Sri R.C. Pathak Counsel for the
Applicant(s)

V E R S U S

U.O.I & Ors. Respondents(s)

Sri S. Singh Counsel for the
Respondents(s)

CORAM :

Hon'ble Mr. A.B.C. Rajan Member

Hon'ble Mr. / Member

1. Whether Reporters of local News Papers may be allowed to seen the Judgment?
2. To be referred to the Reporters or not?
3. Whether their Lordship wish to see the fair copy of the judgment.
4. Whether to be circulated to all the Benches.


SIGNATURE

RESERVED

**CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD.**

ORIGINAL APPLICATION NO. 831 OF 2002.

Allahabad this the 25 day of Nov 2005.

Hon'ble Mr. K.B.S. Rajan, J.M

A.S. Srivastava s/o late Sri S.P. Sinha
R/o 56 Hoshiyar Singh Marg,
Bareilly Cantt.
Permanent Address Sinha Niwas
Chhota Ghazipur, Gorakhpur (U.P)
Presently is working as a Assistant
Garrison Engineer Under Control of G.E. (West)
Bareilly Cantt.

.....Applicant.

**(By Advocate: Sri R.C. Pathak)
Versus.**

1. Union of India through the Defence Secretary,
Ministry of Defence, Govt. of India,
South Block, New Delhi-110011.
2. The Engineer-in-Chief
A-in-C's Branch A.H.O Kashmir House,
Rajaji Marg, New Delhi.
3. The Controller General Defence Account
G.G.D.A, R.K. Puram, West Block, New Delhi.
4. The Controller of Defence Account,
C.D.A., Office of the C.D.A. Ridge Road,
Jabalpur (M.P).
5. The Garrison Engineer (South) M.E.S. Mhow (M.P.)
6. The C.E. (West) MES, Bareilly Cantt. Bareilly.

.....Respondents.

(By Advocate : Sri S. Singh)

O R D E R

The lone question involved in this case is as to whether the applicant who had his by pass surgery outside the State is entitled to the full amount of reimbursement or as per package rate. The full amount is Rs 1,54,030/- (which includes Rs 1,43,200/- being the amount charged by the Escorts for the by pass surgery and Rs 10,830/- being the cost of medicines and other expenses,) while the package rate is Rs 1,09,260/-. The applicant claims the difference with interest @ 18%.

2. The facts of the case as narrated by the applicant in his OA and the reply thereto as contained in the counter are as under:-

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"(i) Assistant Engineer, the applicant developed heart problem at Mhow in October 1996. The applicant consulted private doctor as well as Medical College, Gorakhpur and was not satisfied with the treatment consulted at S.G.P.O. I, Lucknow. They advised and got angiography as heart vassets got 98% blocked and they advised for immediate by pass surgery of heart.

(ii) Applicant was admitted in Sanjay Gandhi Post Graduate Institute of Medical Science, Lucknow on 18.10.96 upto 1.11.96.

(iii) The applicant submitted on 29.1.97 to respondent No.5 Medical Claim is as per C.S.C (MS) Rules. Further the applicant was admitted Escort, New Delhi till 11.11.96 to 21.11.96 for Heart by Pass Surgery. Treatment for the same is amounting to Rs.1,54,029.35 and he forwarded the same to the audit authority for passing the Medical Claims.

(iv) The Government of India, Ministry of Health and Family Welfare, New Delhi issued OM on 22.4.1998 for revision of Charges of By-pass Surgery (CABG) in respect of Private Hospital recognized stating names of Hospital including the Escort Heart Institute and Research Centre at New Delhi.

(v) The respondents No.2 sent a letter on 24.2.2000 to the Director of Health and Family Planning/Welfare Services Nirman Bhawan, New Delhi for sanction for Treatment out side State of M.P.

(vi) The applicant prayed to the Hon'ble Tribunal to direct respondent Nos. 4 and 5 to pay long pending Medical Claim of Rs.1,54,030/- since Jan. 97. Direction was given to expedite.

(vii) Applicant's counsel sent a letter to the respondents for implementation of the Hon'ble C.A.T (Allahabad) Judgment dated 26.4.2002.

(viii) Respondents No.4 and 5 partly passed medical claim of amounting to Rs.10,9,260/- instead of Rs.1,54,030/-.

3. Reply as narrated in the counter:-

(a) The applicant while serving Mhow (M.P) developed some heart problem, consulted Doctors of Sanjay Gandhi Hospital, Lucknow. On the advice of Doctor, got an Angiography done and Doctor advised him for immediate BY PASS SURGERY. He want to Escort Hospital Delhi and took his treatment at Lucknow & Delhi, prior permission for treatment outside State was required which he did not apply before his by pass surgery at Delhi.

(b) Applicant submitted bill for Rs.1,54,200/-, same was passed by CDA Jabalpur for Rs. 1,09,260/- intimating that a sum of Rs.44,770/- has been disallowed being not

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reimbursable in this case as per package deal rates. As such, the payment of Rs. 1,09,260/- was made to the applicant on 25.06.2002 i.e. within two months from the date of receipt of Hon'ble Tribunal judgment.

- (c) The delay in payment is mainly due to non obtaining of prior permission by the applicant for taking treatment outside the State.
- (d) The payment has correctly been admitted by CDA and paid to the petitioner. As regard payment of 18% interest, the same is totally denied on the ground that:-
- (i) Medical reimbursement claim is a facility and admittance of the same is subject to genuineness of the claim as well as fulfillment of the other conditions such as sanction by competent authority etc.

4. The claim preferred by the applicant is as under vide page 35-36 of OA:-

(a) The Escorts Hospital's	
claim for surgery:	Rs 1,43,200/-
(b) Cost of medicines	
while at Escorts:	Rs 1,860/-
(c) Claim in respect of	
Lucknow Hospital	Rs 8969/-
Total:	Rs 1,54,029/-

5. It is the admitted fact that Escorts Hospital where the applicant underwent his medical treatment is one of the recognized hospitals. The prescribed rate for by pass surgery in respect of private hospital is Rs 1,12,850/- vide order dated 22-04-1998. The order clearly states, "The CS(MA)'s beneficiaries undergoing treatment for Angiography, CADG and other specified tests in the private recognized hospitals will be reimbursed to the extent, mentioned in this O.M. The amount charged over and above the prescribed rates will have to be borne by the beneficiaries." The above rate was applicable from the date of issue of the O.M. The package deal rate which had been allowed by the audit authorities, in all probability would be in respect of Government Hospitals, such as

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AIIMS. In addition, as per the rules, the other expenses incurred on purchase of medicines are also admissible. Since the extent of package deal rates for private hospitals prescribed during 1996 when the surgery took place have not been made available, if the rates as of April 1998 (i.e. Rs 1,12,850/-) is taken as admissible, the cost of medicines being also admissible works out as under:-

(a) The Escorts Hospital's	
claim for surgery:	Rs 1,12,850/-
(b) Cost of medicines	
while at Escorts:	Rs 1,860/-
(c) Claim in respect of	
Lucknow Hospital	Rs 8969/-
Total: Rs 1,23,679/-	

Amount already paid Rs 1,09,260/-

Balance payable Rs 14,419/-.

6. The applicant has claimed interest on the amount due to him. The respondents have rightly contested the same stating that since the applicant has not obtained necessary permission for having the treatment outside the State, the delay was caused only due to his omission to obtain such permission. Hence, claim for interest is rejected.

7. The OA is partly allowed. Respondents are directed to pay the amount of Rs 14,419/- to the applicant within a period of two months from the date of communication of this order.

No costs.


Member

Manish/-