

Open Court

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH
ALLAHABAD

(THIS THE 01st DAY OF FEBRUARY 2011)

HON'BLE MR. JUSTICE S. C. SHARMA, MEMBER (J)

Original Application No. 1005 OF 2007

(U/S 19, Administrative Tribunal Act, 1985)

Vijay Narain Dubey, A/o 61 years, S/o Late Surya Narain Dubey, R/o
6/36, Rani Ka Bagicha, Distt. Kanpur.Applicant

VERSUS

1. Union of India through Secretary, Ministry of Defence,
Government of India, New Delhi.
2. The General Manager, Ordnance Equipment Factory, Kanpur.
3. The Works Manager (Admn.), Ordnance Equipment Factory,
Kanpur.

.....Respondents

Present for the Applicant: Sri Suneel

Present for the Respondents: Sri R. C. Shukla.

ORDER

(DELIVERED BY HON'BLE MR. JUSTICE S.C. SHARMA, MEMBER (J))

Instant OA has been instituted for giving a direction to the
respondents in order to pass entire amount of ₹61,087/-towards
medical expenses in treatment of his wife at Regency Hospital, Kanpur.

Pleadings of the parties may be summarized as follows:-

2. It has been alleged by the applicant that he was retired from the service on 31st January, 2007. That according to the Medical

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Attendance Rules applicant is entitled for medical reimbursement of medical expenses. That as per rules applicant submitted the medical bills of ₹61,087/- towards the expenses of treatment of his wife on 27th December, 2001 on prescribed certificate for its reimbursement. The respondents informed the applicant vide letter dated 23rd August, 2003 regarding reimbursement of ₹23,623/- only instead of ₹61,087/- for which the applicant is entitled under the medical attendance rules. A representation was filed before the respondent on 24th September, 2003 requesting for full payment of medical claim according to bill. While considering the representation of the applicant respondents had informed the applicant vide letter dated 18th October, 2003 that if the amount of ₹23,623/- is not received in time then the same shall be deposited in the government account. Again representation was preferred on 28th October, 2003 before respondent no.2 requesting for payment of entire amount of medical claim. Respondents are not bothered to pass the rightful medical claim of the applicant for which he was entitled under Medical Attendance Rules. The applicant is entitled for reimbursement of entire amount of the medical bills amounting to ₹61,087/- which was spent in the treatment of his wife. That the wife of the applicant was suffering from Cancer and for better treatment she had been referred by the competent authority to

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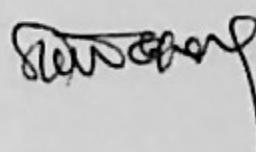
Regency Hospital, Kanpur which is the recognized hospital. That the original documents, bills and vouchers of purchase of medicine issued by the Regency Hospital were submitted before the respondents for its reimbursement but till date the same have not been paid by the respondents to the applicant, hence the O.A.

3. Respondents contested the case and filed counter reply. It has been alleged that the O.A. is highly belated and it is liable to be dismissed on this ground. It has further been alleged that the applicant while he was working in the F.S. Section of the Factory had submitted medical bill of ₹61,087/- towards the expenses incurred in the treatment of his wife Smt. Malti Devi, who was admitted from 24th October, 2001 to 12th November, 2001 in the Regency Hospital, Kanpur, for reimbursement. Medical claim was forwarded to the medical account office vide letter dated 9th February, 2002. And after scrutiny of the medical bill Account Officer disallowed an amount of ₹37,708.50/- and passed only an amount of ₹23,378/- as per the CSMA Rules through cheque dated 6th August, 2003 and the same was forwarded to the Cash Office for payment. The applicant was informed about the same vide letter dated 23rd August, 2003. It was also informed to the applicant that in case applicant is failed to collect the amount within a specified time the same shall be deposited in the

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Government account. But the applicant did not care to collect the amount passed by the local office even after being informed and hence the entire amount was credited into the government account after lapse of considerable period. That as per rules there is no provision for passing of the entire amount claimed by the applicant. The medical claim is subject to scrutiny/audit before being passed by the local Accounts Office. The applicant kept silent for more than four years from the date when the medical claim was passed after scrutiny, that the OA is barred by limitation and is liable to be dismissed.

4. I have heard Mr. Sunil, Advocate for the applicant and Mr. R.C. Shukla, Advocate for respondent nos.01 to 03 and perused the entire facts of the case. It is undisputed fact that the applicant was retired employee of the respondents and it is also undisputed that applicant as per policy and rules entitled for medical reimbursement for medical expenses. It has been alleged by the applicant that his wife was suffering from Cancer and by the competent authority she was referred for treatment in the Regency Hospital, Kanpur. It has also been alleged that a sum of ₹61,087/- was incurred towards medical expenses and the medical bills were submitted to the respondents for reimbursement as per rules. But the respondents as per their condition after scrutiny passed the bill of ₹23,378/- only and deducted an amount



of ₹37,708.50. The applicant alleged that this deduction was made illegally from the medical claim/bills and applicant was entitled for the entire amount.

5. It has also been alleged by the respondents that scrutiny was conducted of the medical bills by the local Account Office and local office disallowed an amount of 37,708/- and allowed only an amount of ₹23,378/- only as per CSMA rules. As I have stated above that the applicant was a retired employee of the Railway was entitled for medical reimbursement of himself and his wife. And bill of full treatment of his wife was submitted by the applicant to the respondents amounting to ₹61,087/. A deduction was made of ₹37,708/- from the medical reimbursement bills. It has not been alleged by the respondents that the amount claimed by the medical reimbursement was excessive or false. Annexure-3 is relevant in this connection it has been alleged in this letter that the claim of ₹6682.50 was excess claim. It has not been alleged that how this claim was excessive and it must based on certain grounds. It is not justified for the respondents to allege that this medical claim was excessive. The medical bills must have been scrutinized by an expert. Hence as no grounds has been mentioned that as to how a sum of ₹6682.50 was claimed excessive it is unjustified. Moreover, it has also been alleged

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that Dr. Fee, Pathological Test, Medicines are not allowed and bills of these items of ₹31,026/- It is a fact that the wife of the applicant was suffering from Cancer and the treatment of Cancer is not available in

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most of the hospital, it is available in very selected hospital and it was

alleged by the applicant that treatment of the Cancer was available in the Regency Hospital, Kanpur and that is why wife of the applicant was referred by the Competent Doctor to the Regency Hospital, Kanpur for treatment. Whatever, was paid by the applicant as a

Government employee towards the medical expenses that is to be paid by the respondents as per rules. I fail to understand that as to how the

Doctor Fee, Pathological charges, expenses on medicines are not admissible to an employee by way of reimbursement. It is certain that

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the Pathological Tests are essential to *be* conducted and, thereafter, medicines are to be prescribed by the Dr. and according to prescription of the Doctor medicines were purchased by the applicant and these medicines were essentials for treatment of the patient but it is surprising that respondents disallowed the expenses of the medicines.

Moreover, in order to arrive at a conclusion certain Pathological Tests are to be conducted and this bill is to be paid by the respondents and Doctor Fee is also essential which has been paid by the applicant.

Hence in my opinion this amount of ₹31,026/- and ₹6682.50/- were

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deducted illegally. Nothing has been alleged that under which policy and parameter only a sum of ₹23,378/- was passed by the respondents because the expenses incurred in Medicine and Pathology Test etc. were deducted and this amount was also required to be paid by the respondents. No rule has been cited by the respondents while alleging that a sum of ₹37,078.50/- was rejected. The amount could have been denied if the bills might have been inflated or exaggerated but nothing has been alleged as that the bills are inflated or exaggerated. Thus, the

amount paid ~~to~~^{by} the applicant ~~spent~~^{was} in the treatment of his wife and as per rules the applicant is entitled for reimbursement of this entire amount ₹61,087/-. The applicant has claimed the medical reimbursement with interest. It is a fact that out of ₹61,087/- only an amount of ₹23,378 was passed by the respondents. It has been alleged by the applicant that this amount was passed by the respondents vide letter dated 23rd August, 2003 and that the applicant was informed vide letter dated 18th October, 2003 to collect this amount passed by medical account office from the cash office. Learned counsel for the respondent argued that it was also stipulated in the letter that incase applicant ~~is~~ failed to collect this amount within a specified time the amount shall be deposited in the Government Account. And it is a fact that the applicant did not collect this amount of ₹23,378/- from the

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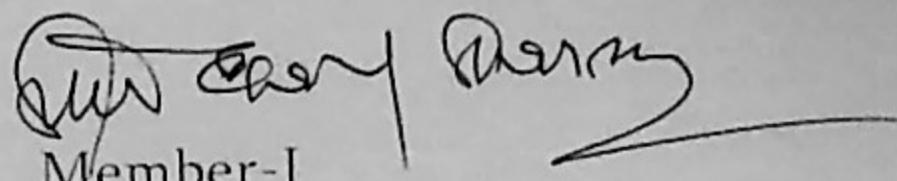
office of the respondents. And hence the respondents can't be held responsible for not paying this amount. It was offered to the applicant but applicant refused it on the pretext that the entire amount be paid to him. Under these circumstances in my opinion the applicant is not entitled for interest on this amount of ₹23,378/-. But as the deduction was illegal of ₹37,708.50/- hence applicant is entitled to this amount alongwith 9% interest per annum.

6. For the reasons mentioned above in my opinion O.A. deserves to be allowed and the applicant shall be entitled for interest @ 9% per annum. on a sum of ₹37,708.50/- and on sum of ₹23,378/- no interest shall be payable to the applicant.

7. O.A. is allowed partly. The applicant is entitled for medical reimbursement of ₹61,087/- incurred in the treatment of his wife. The respondents are directed to pay this amount of 37,078.50/- alongwith interest @ 9% per annum. And it ~~was~~ was also provided that on remaining amount of ₹23,378/- no interest shall be payable to the applicant and this amount shall be paid to the applicant with no interest. The respondents are directed to make payment of this amount within a period of three months from the date when the copy of this order is received by them. Learned counsel for the respondents shall inform

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about the order of the Tribunal forthwith to the respondents. And moreover, applicant shall also serve a copy of this order to the respondents forthwith. No order as to costs.


Member-J

Dev/