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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NO *Reimbursement of Medical charges* AHMEDABAD BENCH

O.A. No. 17 OF 1990.

~~Ex-Ax-Atex~~

DATE OF DECISION 23-3-1993

Shri Hasmukhlal N. Patel, Petitioner

Mr. B.B.Gogia, Advocate for the Petitioner(s)

Versus

Union of India & Ors. Respondent(s)

Mr. B.R. Kyada, Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. R.C.Bhatt, Judicial Member.

The Hon'ble Mr.

1. Whether Reporters of local papers may be allowed to see the Judgement?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the Judgement?
4. Whether it needs to be circulated to other Benches of the Tribunal?

Shri Hasmukhlal N. Patel,
ESM
C/o. Station Master,
Western Railway,
Dwarka.

.... Applicant.

(Advocate: Mr. B.B. Gogia)

Versus.

1. Union of India
Through: General Manager,
Western Railway,
Bombay.

2. Divisional Railway Manager,
Western Railway,
Rajkot.

3. Medical Supdnt.
Western Railway,
Rajkot.

.... Respondents.

(Advocate: Mr. B.R. Kyada)

ORAL ORDER

O.A.No. 17 OF 1990

Date: 23-3-1993.

Per: Hon'ble Mr. R.C. Bhatt, Judicial Member.

Heard Mr. B.B. Gogia, learned advocate for the applicant and Mr. B.R. Kyada, learned advocate for the respondents.

2. This application under section 19 of the Administrative Tribunals Act, 1985, has been filed by a Batteryman, working at Kalol under Chief Signal Inspector, Western Railway, Mehsana, seeking the relief that the respondents be directed to pay a sum of Rs. 1972.38 to the applicant towards the medical expenditure incurred by him with interest and further that the letter dated 8th September, 1988, Annexure A-2, written by the General Manager to the General Secretary

be quashed.

3. The short facts giving rise to this application are that the wife of the applicant was treated at Baroda on 10th May, 1984, and while she was returning from Baroda to Kalol, she had to get down at Nadiad station and she had to rush to private hospital and was required an operation for appendicitis. The applicant took his wife to Mahalaxmi M Desai Hospital, a private hospital, for an immediate operation. The applicant had claimed the reimbursement in time on 1st August, 1984. Earlier the reimbursement was turned down by the Divisional Medical Officer, Rajkot vide Divisional Railway Manager's letter dated 22/25-9-84. It appears that thereafter his case was taken by local Union of Rajkot division and was regretted by Divisional Railway Manager, Rajkot. However, one off the headquarter recognised union of this railway appealed to the General Manager for sympathetic consideration for reimbursement vide their letter dated 6th February, 1987. It is important to note that, it appears from Annexure A-1 dated 30th October, 1987, addressed by the General Manager to the Secretary (E), Railway Board, New Delhi that this case was reviewed at headquarter level and same had been recommended for reimbursement on humanitarian consideration by ~~the~~ ^M railway. The letter Ann. A-1 shows that all bills and vouchers have been signed by the treating doctor, Dr. Ramesh R. Shah and

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essential certificate is also given by him. It is also not in dispute that the applicant's wife was operated upon in emergency for acute pain in abdomen. The General Manager in his letter Annexure A-1 in para 5 as mentioned "Since her condition became serious and as an emergency operation was required, she had gone on her own accord to a private hospital hence she was not referred by the Railway Doctor; therefore ex. post facto approval by the competent medical authority was not given." In para-6 it is mentioned that "the total amount claimed by the employee being Rs.2226.60 out of which Rs. 1972.38 are admissible. In para 8 it has been mentioned as under:

"The patient while travelling in the train developed acute pain and had to be rushed to the private hospital for an immediate operation on 12th May, 1984. The prior consultation with Authorised Medical Attendant was not possible in this case due to sudden emergency. The case is being recommended to Board for their consideration on humanitarian grounds".

Thereafter, it appears that the Railway Board vide letter dated 23rd August, 1988 advised that the proposal sent by the Railway to sanction reimbursement of Rs.1972.32Ps. which the applicant incurred for the treatment of his wife had been considered but regret his inability to agree to the same and this communication was sent to the General Secretary,

W.R.M.S. BCT by the General Manager on 8th September
1988.

4. The learned advocate for the applicant submitted that when the condition of the applicant's wife was serious and when the emergency operation was required she had gone to a private hospital. He rightly submitted that the condition of the applicant's wife was such that it was not possible to refer by the Railway Doctor. The applicant's wife while travelling in the train developed acute pain and she had/rushed to be to the private hospital for an immediate operation on 12th May, 1984. This was a special circumstance under which the prior consultation with authorised medical attendant was not possible in this case due to sudden emergency. Under these circumstances, the Board ought to have very sympathetically considered the recommendation of the General Manager instead of turning down the said recommendation. The letter Annexure A-2 does not show the application of mind of the Railway Board as to why in such a serious case the reimbursement is not allowed.

5. The respondents in the reply have contended that the applicant's wife was admitted in a private ^{re at} hospital and not a Government recognised hospital and therefore, as per Rule 1432(ii) of the Indian Railway Establishment Manual, reimbursement was not given.

6. The applicant has filed rejoinder controverting the contention taken by the respondents in the reply.

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7. Having heard the learned advocates I am of the opinion that this is a fit case in which the Railway Board ^{should} ~~are~~ again reconsider their decision and should give weight to the recommendation which has been given by the General Manager by letter Annexure A-1 dated 30th October, 1987 to the Secretary, Railway Board for reimbursement of the amount of Rs. 1972.38. The ^{to do} rules are made substantial justice to the party and in a case like present one, when the applicant's wife while travelling in the train developed acute pain, there was no time to refer to the Railway Doctor and naturally she had gone to a private hospital to save her life. Under these ^{circumstances}, I strongly recommend the Railway Board to revise its decision ^{if it is possible to} and to give justice to the applicant ~~with this~~ relax the rules ^{direction}. The Board may decide this case within four months from the date of the receipt of this order. The application is disposed of with no order as to costs. ^{with the above direction}

R. C. Bhatt
(R.C. Bhatt)
Member (J)

vtc.