

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A.NO./ 476/92

T.A.NO.

DATE OF DECISION 14.5.1999

Jethabhai Kacharadas Patel, Petitioner (s)

Mr.I.M. Pandya Advocate for the petitioner(s)

VERSUS

Union of India & Ors Respondent (s)

Mr.B.N. Doctor Advocate for the Respondent(s)

CORAM

THE HON'BLE MR. V.RAMAKRISHNAN : VICE CHAIRMAN

THE HON'BLE MR A.S.SANGHAVI : MEMBER [J]

JUDGMENT

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

Jethabhai Kachardas Patel,
Sub Divisional Officer Phones,
Telecom, District Manager,
Junagadh.

Applicant

Advocate Shri I.M.Pandya

Versus

1. The Union of India, Through:
Director General,
Department of Telecommunications,
New Delhi.
2. Shri M.G.Kulkarni,
Chief General Manger,
Gujarat Telecom. Circle,
Khanpur,
Ahmedabad.
3. Shri N.K.Mangla,
Geenral Manager [O],
Gujarat Telecom Circle,
Khanpur,
Ahmedabad.
4. Shri S.Natarajan,
Chief Accounts Officer,
Gujarat Telecom Circle,
Ahmedabad.

Respondents

Advocate Mr.B.N.Doctor

J U D G M E N T
IN

O.A.NO. 476/92

Date: 14/5/1999

PER Hon' ble Mr.A.S.Sanghavi : Member [J]

The applicant has moved this O.A. with a prayer to direct the respondents to make the full payment of Rs. 59,583/ toward his medical bill and to hold that the action of the respondents in making the payment of Rs. 36,960/- against this bill was unjust, illegal and bad in law.

2. The applicant was serving as a Sub Divisional Officer, Phones in Junagadh in the year 1991 and he had fallen sick in Junagadh. Since his family was residing at Baroda with the prior permission of his superior, he had shifted to Baroda and was immediately admitted in Dr. B.R.Patel's hospital at Baroda on dated 28.1.1991. He was discharged from that hospital on dated 18.2.91 with the advise that by pass surgery was absolutely necessary to save his life. The applicant thereafter consulted the doctor in P & T Dispensary at Baroda and also Yogini Vasant Devi Arogya Mandir, Baroda where the same advise was given to him and he was asked to go to Madras for Angio Plasty/ or by pass surgery in Apollo Hospital at Madras. He was thereafter admitted in Apollo Hospital on dated 28.3.91 and the coronary angiogram carried out on him towards to advise for by pass surgery and by pass surgery was carried out on him in April 1991. He was kept in the Hospital for angiogram from 28.3.91 to 30.3.91 and thereafter from 14.4.91 to 29.4.91 for by pass surgery. The bill for the medical treatment received at Dr. B.R.Patel's hospital, Baroda, was for Rs. 4722/- while that of the Apollo Hospital, Madras was of Rs. 44692/-.

The applicant had moved the Director of Health Services, Gujarat State, Gandhinagar to accord permission with retrospective effect for taking treatment out side the Gujarat State vide his letter dated 10.7.91 and such approval was given by the Additional Director of Health Services, Gandhinagar on dated 28.1.91. The applicant thereafter submitted the medical bills totalling in of Rs. 59,583/- for the treatment taken at Dr. B.R.Patel's hospital as well as the Apollo Hospital, Madras for reimbursement to the respondents. The District Manager, Telecom, Junagadh also recommended to pass these bills at the earliest. However, after raising certain objections, the respondents rejected the bill of the medical treatment taken at the Dr. B.R.Patel's hospital and allowed only Rs. 37308/- towards the treatment taken at the Apollo Hospital, Madras.

3. Aggrieved by the non sanctioning of the medical bill in full by the respondents, the applicant has preferred this O.A. before us.

4. The respondents have filed their reply contending inter alia that since the initial treatment at the Dr. B.R.Patel's hospital was taken at a private hospital, under the rules, the applicant was not entitled to be reimbursed the expanses for that treatment. As regards the treatment taken at the Apollo Hospital, the respondents have contended that since the applicant was in the pay range of Rs. 2501 to Rs. 3500/- with basic pay of Rs. 3200/-, he was only entitled for semi private ward for which the fixed charges of Rs. 27,500/- are provided for coronary by pass surgery vide the Govt. Of India, Ministry of Health's Circular No. O. M. No./S-11011/22/84-

C.G.H.S. [D]/ I/C. G.H.S. [P] dated 6.10. 89 . It is also contended that the Apollo Hospital, Madras had charged Rs. 37520/- towards package deal which included everything except Doctors' fee and that Rs. 6868/- were charged for angiogram. It is also contended that angiogram is part of the by pass surgery and therefore no separate amount can be paid for angiogram and this amount of angiogram charges is included in the prescribed amount of Rs. 27,500/- allowable. It is also contended that Rs. 15000/- are allowable towards the cost of disposable appliances and special nursing charges as per the above quoted circular but since the package bill showed that Rs. 37520 were charged by the Apollo Hospital, Rs. 9460/- was paid to the applicant. They have denied that the medical treatment taken at Dr.B.R.Patel's hospital is admissible for reimbursement and that the deductions made from the bill of the Apollo Hospital were arbitrary and illegal.

4. We have heard both the learned counsels at length and have gone through the relevant rules as well as the bills produced by the applicant. So far as the initial treatment taken by the applicant is concerned, it cannot be denied that the same was taken by the applicant at a private hospital in Dr.B.R.Patel's hospital. Under the rules, he is not entitled to be reimbursed for the expenses incurred by him towards the medical treatment taken by him at the private hospital. Mr.I.M.Pandya, the learned counsel for the applicant has conceded the fact that the clinic of Dr.B.R.Patel was a private clinic and as such under the general instructions of Ministry of Health


O.M. No. S- 14021/1/87- MS dated 21.9.87 , the treatment taken at a private clinic or nursing home is not admissible for reimbursement.

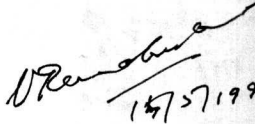
5. Now so far as the applicant's claim regarding the full payment of the bill of Apollo Hospital is concerned, Mr.B.N. Doctor, learned counsel for the respondents has pointed out that vide circular No AS- 11011-/ 14/88- CGHS [D] II- /CGHS dated 3.5.90, the govt. has fixed the rates for by pass surgery in respect of serving employees and as per this circular, the employees entitled to semi private ward are eligible for reimbursement of Rs. 27,500/-. He has also pointed out that the circular contains an explanation that these rates are inclusive of pre- operative investigation , angiography, hospital stoppage charges, operation charges, medication, and food. He has further pointed out that the office memorandum dated 18.3.92, issued by the Ministry of Health and Family Well fare, specifically states that the Central Government Health Scheme does not reimburse treatment taken from the private unrecognized hospitals and in the case of emergency where the treatment had to be taken in private unrecognized hospitals, the claims preferred may be referred to the C.G.H.S. concerned, who will recommend the admissible amount for payment to the beneficiaries. It is also laid down in this memorandum that the treatment taken at the private nursing home will not be reimbursed.

5. It is quite obvious that so far as the question of treatment taken by the applicant at Dr. B.R.Patel's clinic is concerned, the applicant has no case for reimbursement. However, as regards the treatment taken at the Apollo hospital, Madras is

concerned, the applicant was entitled for fixed amount of Rs. 27,500/- for by pass surgery. No explanation is forthcoming from the respondents why the amount of Rs. 15000/- in full was not allowed to the applicant towards the claim of disposable appliances. The above mentioned circular providing reimbursement of Rs. 27500/- for semi private ward. Further provides that the cost of the disposal appliances and special nursing charges are reimbursable from the services- head of the employee and cost of these items is approved at Rs., 15000/- for by pass surgery. This amount of Rs. 15000/- will be recovered from the C.G.H.S. beneficiaries referred to them and the beneficiaries will claim these charges from their respective department/ office. In the reply the respondents have merely stated that the applicant can not get the full amount of Rs. 15000/- towards the disposable appliances but only Rs. 9460/- on the basis of the certificate issued by the Apollo Hospital authorities. Now there is no certificate issued by the Apollo Hospital to the effect that they have charged only the Rs. 9460/- towards the cost of the disposable appliances etc. Mr. Doctor, the learned counsel for the respondents has not been able to explain from where this figure of Rs. 9460/- is arrived at by the respondents. The certificate issued by the Apollo Hospital on 3.4.92 nowhere states that they had charged Rs. 9460/- towards the cost of the disposable appliances etc. and the total treatment charges exclusive of Doctors' fees aggregated to Rs. 44692/- Since the amount of Rs. 15000/- for the cost of disposal appliances and special nursing charges is not allowed in full by the respondents to the applicant, the applicant is

entitled to recover Rs. 5540 on this head . Furthermore, the letter of the Apollo Hospital, Annexure R-7 dated 10.8.92 clarifies that Rs.560/- were included in the package deal by way of diet charges. Since the diet charges are not allowable in view of the office memorandum dated 18.3.92 , this amount of Rs. 560/- will have to be deducted from the amount becoming allowable to the applicant. The due amount payable to the applicant therefore works out to Rs.4980/- . The angiogram amount of Rs. 6868/- shown separately in the bill of the Apollo Hospital is not allowable in view of the circular of the Ministry Health and Family Well Fare dated 3.5.90 . The applicant is therefore, entitled to recover only Rs. 4980/- from the respondents and to that extent, this O.A. deserves to be allowed. Hence, in the conclusion, the O.A. is partly allowed and the respondents are directed to pay Rs. 4980/- to the applicant. This amount be paid within 2 months from the date of passing of this order and if not paid within 2 months, the same will be payable with interest at the rate of 12 % from the date of the passing of the order till the payment. No order as to costs.


[A.S.SANGHAVI]
MEMBER [J]


[V.RAMAKRISHNAN]
VICE CHAIRMAN

*** SSn ***