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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 478 OF 1995

Cuttack, this the 5th day of January, 1998

Achyuta Nanda Panda

....

Applicant

Vrs.

Union of India and others

....

Respondents

(FOR INSTRUCTIONS)

- 1) Whether it be referred to the Reporters or not? Yes.
- 2) Whether it be circulated to all the Benches of the Central Administrative Tribunal or not? No.

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN

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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 478 OF 1995

Cuttack, this the 5th day of January, 1998

CORAM:

HONOURABLE SHRI SOMNATH SOM, VICE-CHAIRMAN

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Achyuta Nanda Panda,
aged about 54 years,
son of Trivikram Panda
working as Telephone Supervisor,
in the office of Telecom District Engineer,
At/PO/Dist. Sambalpur Applicant

By the Advocates

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M/s S.K.Purohit,
P.K.Sahoo,
P.Mohapatra &
K.M.A.Niamati.

Vrs.

1. Union of India, represented by
the Secretary to Government of India,
Ministry of Telecommunication,
New Delhi.
2. Chief General Manager,
Department of Telecommunication,
Orissa Circle, Bhubaneswar-751 001.
3. Telecom District Engineer,
Sambalpur Respondents

By the Advocate

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Mr.Ashok Mohanty.

ORDER

SOMNATH SOM, VICE-CHAIRMAN In this application under Section 19 of
Administrative Tribunals Act, 1985, the petitioner has prayed
for quashing the order dated 20.1.1995 (Annexure-6)
rejecting the medical bill for treatment of applicant's
daughter at Appollo Fyodorov Eye Research Institute, Hyderabad.
There is also a prayer for a direction to the respondents
to reimburse the medical expenses incurred by the applicant.

2. Facts of this case are that the applicant's
daughter, aged about 20 years and dependent on him, has
been suffering from impaired eye sight since childhood
and has been undergoing treatment at V.S.S.Medical College
Hospital, Burla. On 3.7.1992, Head of Department of

Ophthalmology, V.S.S.Medical College Hospital, Burla, referred her case to Appollo Fyodorov Eye Research Institute, Hyderabad, for further investigation and treatment as proper facilities were not available inside the State. Superintendent of V.S.S.Medical College Hospital, Burla, referred the matter to Director of Medical Education & Training,Orissa, in his letter dated 3.7.1992 (Annexure-1). In this letter, it has been mentioned that Head of Department of Ophthalmology has recommended the case of the daughter of the applicant to the above Institute at Hyderabad for further investigation and treatment and the necessary certificate granted by the Head of Department, Ophthalmology is enclosed. Director, Medical Education & Training, in his order dated 27.7.1992 (Annexure-2) accorded permission for the daughter of the applicant to go to Appollo Fyodorov Eye Research Institute, Hyderabad, for treatment of Retinitis Pigmentosa of both eyes. In this order,^{an} attendant was also allowed to accompany the patient as it was held unsafe for the patient to travel alone. In pursuance of the above, the applicant applied for permission and also for medical advance. In letter dated 18.9.1992 from Accounts Officer , office of Chief General Manager, Telecommunication, Orissa, Bhubaneswar, the Telecom District Engineer, Sambalpur, under whom the applicant was serving then as Telephone Supervisor, was informed that the applicant should be intimated that at present no advance can be sanctioned. It was further indicated that the patient may be admitted in the Appollo Fyodorov Eye Research Institute, Hyderabad and the estimate of expenditure may be sent from the concerned Hospital for taking further necessary action. The applicant arranged for funds and took his daughter to the above Institute at Hyderabad and after completion of treatment, submitted medical bill of Rs.30,082.20 paise for reimbursement. This medical bill

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was sent by Accounts Officer, office of Telecom District Engineer, Sambalpur, to Accounts Officer, office of Chief General Manager, Telecommunication, Orissa, Bhubaneswar, in letter dated 25.9.1992. After about a year, in letter dated 13.9.1993 Accounts Officer, office of Chief General Manager, Telecommunications, Orissa, Bhubaneswar, wrote to Deputy Director General (Est.), Telecom Directorate, New Delhi (Annexure-5) mentioning that Appollo Fyodorov Eye Research Institute, Hyderabad, is not a recognised referral hospital as per C.S. (MA) Rules, but the patient was advised by her treating physician for medical treatment outside the State. In this letter, the details of expenditure under different heads as per the medical bill have been mentioned. It has been further stated that no approved rates are available for settlement of the medical claim. But as the case was referred to by the Professor & Head of Department, Ophthalmology, V.S.S. Medical College Hospital, Burla, the Deputy Director General was requested to advise the rate at which payment will be made to the applicant. Reply to this letter came after another year in letter dated 20.1.1995 (Annexure-6) in which Accounts Officer, office of Chief General Manager, Telecommunication, Orissa, informed the Telecom District Engineer, Sambalpur, that the medical treatment in the above Institute is not admissible even under relaxation of C.S. (MA) Rules as per the decision communicated by the Department of Telecommunication, New Delhi, in their letter dated 12.1.1995 and as such the medical bill was returned with this letter. The applicant filed a representation to Chief General Manager, Telecommunication, Orissa, Bhubaneswar, on 10.2.1995 in which he mentioned that permission was accorded to him to take his daughter to Appollo Fyodorov Eye Research Institute, Hyderabad, not only by Director of Medical Education & Training, Orissa, but also by Chief General Manager, Telecommunication, Orissa, Bhubaneswar. He also mentioned that three other persons

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of the Department S/Shri G.N.Tripathy, Ananda Ch.Das and Adwaita Chandra Mohanty have availed of treatment at Appollo Fyodorov Eye Research Institute, Hyderabad and got their expenditure reimbursed and therefore, he should not be treated differently and his medical claim should not be rejected. As no orders were passed on his representation, the applicant has come up with the aforesaid prayer.

3. Respondents in their counter have opposed the prayer of the applicant stating that no permission was granted to the applicant to take his daughter to the Institute at Hyderabad. In any case, the applicant had taken his daughter to Hyderabad even before the letter dated 18.9.1992 (Annexure-3) was issued. Appollo Fyodorov Eye Research Institute, Hyderabad is not a referral Institute and therefore, no relaxation can be made and the bill cannot be paid. In paragraph 11 of the counter, the following statement has been made:

".....However, his claim for the reimbursement has been forwarded to the higher authority which is pending for consideration, therefore this application is premature."

Respondents have relied on letter dated 12.1.1995 from the Assistant Director General (TE), Department of Telecommunications, New Delhi, addressed to Chief General Manager, Orissa Telecom Circle, Bhubaneswar, in which the claim for medical reimbursement has been rejected.

4. I have heard the learned lawyer for the applicant and the learned Senior Standing Counsel, Shri Ashok Mohanty appearing on behalf of the respondents, and have also perused the records.

4. From the pleadings of the parties and the connected papers, it is clear that the case of the applicant's daughter was referred to Appolo Fyodorov Eye Research Institute, Hyderabad, by Head of Department, Ophthalmology, V.S.S.Medical College Hospital, Burla. This was forwarded by Superintendent, V.S.S.Medical College Hospital, Burla, to Director of Medical Education & Training, Orissa, Bhubaneswar, who had also accorded permission. Learned lawyer for the applicant, at the time of hearing, has drawn my attention to minutes of RJCM meeting held on 14.11.1995 in which under item 64/11-95, it has been noted that for medical treatment to be taken outside the State it is mandatory to obtain permission from the State Health Directorate. It is submitted by the learned lawyer for the petitioner that accordingly, in this case, Director of Medical Education & Training, Orissa, Bhubaneswar, had given permission for treatment of daughter of the applicant at Appollo Fyodorov Eye Research Institute, Hyderabad. Next question for consideration is if the applicant has been permitted by the departmental authorities to take his daughter to the said Institute. Respondents have claimed that no such permission has been given and in any case the letter at Annexure-3 had been issued after the applicant had taken his daughter to Hyderabad. I have already referred to this letter dated 18.9.1992 issued by the office of Chief General Manager, Telecommunication, Orissa, Bhubaneswar. In this letter, it has been clearly mentioned that the patient may be admitted in Appollo Fyodorov Eye Research Institute at Hyderabad and only on estimate of expenditure being sent by the Institute, sanction of medical advance will be considered. From a

plain reading of this letter, it is clear that permission was accorded to the applicant to take his daughter to Hyderabad. The fact that by that time the applicant had actually taken his daughter to Hyderabad is of no consequence. Conclusion is, therefore, inescapable that the applicant has been permitted to take his daughter to Appollo Fyodorov Eye Research Institute, Hyderabad.

5. The next point for consideration is whether the decision of the respondents to reject the medical claim on the ground that the above Eye Research Institute is not a referral Hospital is correct. Since it has been held that the applicant was permitted to take his daughter to the above Institute and since the case of the daughter of the applicant was referred to the Institute by Head of Department of Ophthalmology, V.S.S. Medical College, Hospital, Burla, Superintendent, V.S.S. Medical College Hospital, Burla and Director of Medical Education & Training, Orissa, Bhubaneswar, it would be quite incorrect on the part of the respondents to reject the claim for medical reimbursement on the ground that the above Eye Research Institute at Hyderabad is not a referral Hospital. Under the circumstances of this case, the respondents should place full facts before the Ministry of Health and obtain a special dispensation for reimbursement of medical expenses to the applicant.

It is also seen from the letter dated 13.9.1993 of Accounts Officer, office of Chief General Manager, Telecommunication, Bhubaneswar, to Deputy Director General (Est.), Telecom Directorate, New Delhi, that office of Chief General Manager, Telecommunication, Bhubaneswar, had asked for the rate at which the reimbursement should be made. The respondents should ascertain the rate at which reimbursement should be made from the Ministry of Health and accordingly arrange for making reimbursement. In consideration of the above, the order dated 20.1.1995 at Annexure-6 is quashed and the

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respondents are directed to refer the case of the applicant to the Ministry of Health for obtaining a special relaxation for reimbursement of his medical expenses for treatment of his daughter at Appollo Fyodorov Eye Research Institute, Hyderabad at the rates to be indicated by the Ministry of Health. This action should be completed within a period of 90(ninety) days from the date of receipt of copy of this order.

6. With the above observation and direction, the Original Application is allowed. No costs.

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