

5

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 503 OF 1999.

Cuttack, this the 9th day of January, 2000.

Shri Akshaya Kumar Jena.

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

(G. NARASIMHAM)
MEMBER (JUDICIAL)

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN
1.1.2001

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 503 OF 1999.
Cuttack, this the 9th day of January, 2001.

CORAM:

THE HONOURABLE MR. SOMNATH SOM, VICE-CHAIRMAN

AND

THE HONOURABLE MR. G. NARASIMHAM, MEMBER (JUDICIAL).

..

Sri Akshaya Kumar Jena, Aged about 52 years,
Son of late Basudev Jena, At present working
as Statistical Assistant, Director of Census
Operation, Orissa, Sahidnagar, P.O: Bheinagar,
P.S: Sahidnagar, Bhubaneswar, Dist: Khurda.

... ... Applicant.

By legal practitioner: M/s. R. C. Praharaj, B. N. Mishra, Advocates.

- Versus -

1. Union of India represented through Secretary, Ministry of Home Affairs, New Delhi.
2. Registrar, General of India, 2-A Mansingh Road, New Delhi-110 011.
3. Deputy Director, Office of Registrar General of India, 2-A Mansingh Road, New Delhi.
4. Deputy Director of Census Operation, Census Directorate, Bhubaneswar, Dist: Khurda.

... ... Respondents.

J. S. J. By legal practitioner : Mr. B. Dash, Additional Standing Counsel.

....

O R D E R

MR. SOMNATH SOM, VICE-CHAIRMAN;

In this Original Application, the applicant has prayed for quashing the order dated 16.6.1998 at Annexure-14 and 1-12-1998 at Annexure-15 rejecting his representation for reimbursement of certain amounts of medical expenditure. The second prayer is for a direction to the Respondents to sanction Rs.1,33,187.00 on the basis of the package deal estimate submitted by Apollo Hospital and the circulars at Annexures-6 and 7. The third prayer is for a direction to the Respondents to pay the balance amount of Rs.44,167/- to the applicant after adjusting the advance amount already paid. Respondents have filed counter opposing the prayers of applicant.

2. Learned lawyers have abstained from court work from 7-12-2000. We have been told from time to time that they will be joining from court work after a few days but in this manner, the abstention of court work have gone up for more than a month. So far we are accommodating learned lawyers by taking up only such cases for disposal where parties are present and wanted early adjudication of the matter. But as the abstention of court work have gone up for more than a month and there is no indication how long it would continue, it is not possible to drag on the matter indefinitely. We have, therefore, perused the records.

3. For the purpose of present adjudication, it is not necessary to go into too many facts of this case. The admitted position is that the applicant is working as Statistical Assistant in the office of the Director of Census Operation, Bhubaneswar. Applicant's wife suffered from

angina trouble of the heart and after consultation in Capital Hospital, Bhubaneswar, he was advised to take her to Apollo Hospital for by - pass surgery. The case of the applicant's wife for by-pass surgery was referred by the Professor and Head of the Department of Cardiology, SCB Medical College & Hospital, Cuttack to Apollo Hospital, Hyderabad. In this Certificate, which is at Annexure-1, a tentative estimate of the cost of the surgery was also indicated and this came to Rs.1,38,500/-. The Director, Medical Education and Training also accorded permission for by-pass surgery of applicant's wife in Apollo Hospital, Hyderabad. Applicant also approached the Departmental Authorities, the Respondents in this case to sanction medical advance of 90% of the estimate cost of the by-pass surgery. Applicant had moved the Apollo hospital for obtaining the estimated cost of the bypass surgery and the Apollo Hospital in their estimation for bypass surgery of the applicant's wife estimated the cost at Rs.1, 84,000/- . This estimate of Apollo Hospital, Hyderabad is at Annexure-3. In response to the applicant's application for sanction of advance, he was sanctioned an amount of Rs.89,100/-. Applicant admitted his wife in Apollo Hospital on 11-1-1998 where she underwent bypass surgery and was treated at the hospital from 11-1-1998 to 26-1-1998. The total expenditure incurred for surgery and treatment was Rs.1,33,187/-. The inpatient bill showing the above amount is at Annexure-8. Alongwith the advance, the applicant paid the balance amount of Rs.44,167/- to the Apollo Hospital Authorities from his own sources and got his wife discharged. Thereafter, the applicant made representation for re-imbursement of the balance amount of Rs.44,167/- and also submitted final medical bill but in the impugned order at

Annexures-14 & 15, his representation for reimbursement of the balance amount was rejected. In the context of the above fact, the applicant has approached this Tribunal with the prayers referred to earlier.

4. In his Original Application, the applicant has mentioned that the amount of Rs.89,100/- which was sanctioned to him as advance does not represent 90% of the package deal and he should have been given higher amount. That aspect is no longer material because in the meantime, the wife of the applicant has already undergone the by-pass surgery and the sole question for determination is whether the applicant is entitled for reimbursement of the entire amount of Rs.1,33,187/- which is the Bill of the Hospital.

5. In support of his claim, applicant has relied on the circular dated 25-9-97 and 29-10-92 of the Ministry of Health. These two circulars are at Annexures-6&7 of the O.A. We have gone through these two circulars carefully. So far as circular dated 29.10.92 is concerned, this concerns only the grant of medical advance and the portion of the circular relevant to the present case provides that in case of major illness like bypass surgery, Kidney Transplants etc. the advance may be limited to 80% of the package deal wherever it exists or the amount demanded by the Hospital concerned, in other cases and the balance payable on final adjustment. In the later circular dated 25.9.97(Annexure-6) it has been provided that in case of major illness like Bypass surgery, Kidney Transplant, the amount of advance may be sanctioned upto 90% of the package deal rates wherever it exists or according to the estimate submitted Government/Government

Government recognized private Hospital, whichever is less. The balance may be paid on final adjustment. Applicant has based his claim that as these two circulars speak of payment of 90% of the package deal or estimate of the Hospital and the balance at the time of final adjustment, he is entitled to for reimbursement of the entire amount. Respondents have pointed out that the case is governed by the circular dated 13.9.1996 at Annexure-R/1. They have pointed out that the two circulars relied upon by the applicant deal with the quantum of advance which has to be sanctioned in case of major illness like bypass surgery. It is averred that for bypass surgery, Government of India have fixed a package deal of Rs. 99,000/- in letter dated 13.9.96 and in paragraph 2 of this letter it is provided that in case the patient is treated in a private ward the package deal will be increased by 15% and in case the patient is treated in a general ward it would be reduced by 10%. As in case of applicant's wife she was treated in a general ward from the package deal of Rs. 99,000/- an amount of 10% has been deducted and balance amount of Rs. 89,000/- is the amount which was earlier sanctioned to him as advance. As the circular of the Government of India provides for fixing the amount in case of major illness, the amount permitted under the package deal will only be reimbursed. There is no illegality in limiting the reimbursement upto the limit fixed for package deal. Hon'ble Supreme Court in the case of STATE OF PUNJAB AND OTHER VRS. RAM LUBHAYA BAGGA ETC. reported in 1998 (2) SLR 220 have also decided that where the Government circular provides for an upper limit of medical reimbursement, no illegality is involved. In the instant case, therefore, as the package deal provided for Rs. 99,000/- and as admittedly the applicant's wife

was treated in general ward, the Respondents were in right in reducing the package deal by 10% and determining that no further amount is payable to the applicant. We, therefore, find no illegality in the action of the Departmental Authorities. The Original Application, is, therefore held to be without any merit and is rejected. No costs.

(G. NARASIMHAM)
MEMBER (JUDICIAL)

(SOMNATH SOM)
VICE-CHAIRMAN

KNM/CM,