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OA No.381/2010

Smt.Ashima Haldar ..... Applicant  
-Versus-  
Union of India & Ors. .... Respondents  
.....

Order dated: the 27th July, 2010.

C O R A M

THE HON'BLE MR. C.R.MOHAPATRA, MEMBER (A)

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Claim of the applicant in this OA is in regard to payment of certain medical expenses incurred by her for her own treatment in a private hospital (Behela Balananda Brahmachari Hospital), which according to the applicant is a CGHS recognized hospital. Heard Learned Counsel for the Applicant and Mr.U.B.Mohapatra, Learned SSC for the Union of India appearing on notice for the Respondents and perused the materials placed on record. It is the positive case of the Applicant that while allowing such medical reimbursement in case of others in similar situation denial of the extension of such discretion to her amounts to discrimination. Hence he insisted for allowing her prayer made in this OA. Mr.Mohapara, vehemently opposed the contention of the Learned Counsel for the Applicant. By referring to the letter under Annexure-A/2 it has been stated by Mr. Mohapatra, Learned SSC that this case being grossly barred by time is liable to be dismissed. On the other hand Mr. Padhi, Learned Counsel for the Applicant submitted that through letter under Annexure-A/2 Respondents sought clarification from the applicant and the applicant clarified the same in letter under Annexure-A/3. Since nothing was communicated to her, she made successive representations to the competent authority but nothing has been communicated to her till date. Therefore, she has approached this Tribunal. I agree with the

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contention of the Learned Counsel for the Applicant that the letter under Annexure-A/2 is not a letter of rejection of her claim as branded by Mr. Mohapatra, Learned SSC. As such I do not agree with the contention of Mr. Mohapatra that the claim of the applicant is in any manner barred by limitation. Besides, it is the positive case of the applicant that on similar circumstances claims for reimbursement of medical expenses incurred in private hospital have been entertained and allowed by the Respondents. It is well settled law that discretion vested cannot be used discriminatorily by the authority. However, since representations successively made by the Applicant in regard to her claim for reimbursement of the medical expenses are pending with the authority, without expressing any opinion on the merit of the matter, this OA is disposed of at this admission stage with direction that the *copy of the paper book along with a copy of this order be sent to the Respondent No. 2 [Principal Director of Audit, South Eastern Railway, Garden Reach, Kolkata-43]* **who shall take a decision in the matter and communicate its decision in a reasoned order to the Applicant within a period of 30(thirty) days from the date of receipt of copy of this order. For this purpose, Learned Counsel for the Applicant is directed to deposit the postal requisite by 30<sup>th</sup> July, 2010.**

  
Member (Admin.)