

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH : JODHPUR

Date of order : May 05, 1999.

O.A. No. 77/1996

Gulab Chand son of Shri Roop Chand presently working as Diesel Mechanic, Diesel Shed, Bhagat Ki Kothi, Northern Railway, Jodhpur.

... Applicant.

versus

1. Union of India through the General Manager, Northern Railway, Baroda House, New Delhi.
2. Chief Medical Director, Northern Railway, Baroda House, New Delhi.
3. Divisional Personnel Officer, Northern Railway, Jodhpur.

... Respondents.

Mr. S.K. Malik, Counsel for the applicant.

Mr. R.K. Soni, Counsel for the respondents.

CORAM:

Hon'ble Mr. N.P. Nawani, Administrative Member.

.....

BY THE COURT:

This case relates to the claim made by the applicant for reimbursement of expenses incurred by his wife in connection with treatment of her infertility. The applicant seeks quashing of the letter dated 27.4.95 (Annexure A/1) under which the medical reimbursement claim was returned since it was not admissible, the treatment having not been taken in the Government hospital. The applicant also seeks quashing of the letter dated 20.1.95 (Annexure A/6)

[Handwritten signature]

under which the following order of the competent authority was communicated:

"I have gone through the papers. But the fact remains that she could have taken prior permission as it was not an emergency...."

2. The applicant has prayed that "the entire medical treatment given to his wife was with the advice of the authorised medical attendant. As Dr. Laxmi Sachdeva was the first consultant, who was working as Railway Consultant in Railway hospital at Jodhpur at that time. Thereafter, the case of the applicant's wife was advised by Dr. Kanta Tiwari vide Annexure A/2 to get cured at Jaipur Fertility Research Centre (Jaipur Centre, for short). The wife of the applicant was cured at Jaipur Centre. A certificate to that effect was also issued by Dr. M.L. Swarankar..... That the Chief Medical Director vide Annexure A/6 has wrongly held that prior permission could have been taken by the applicant as it was not an emergency..... But it was not a case of emergency. In view of this matter, the claim of the applicant is liable to be accepted."

3. The notice of the O.A. was sent to the respondents who have filed their reply. It has been contended that both Dr. Laxmi Sachdeva and Dr. Kanta Tiwari were working as honorary consultants and were not authorised to refer any case to the private hospitals or any Institute. In fact, they have not even referred her case. As will be clear from OPD Slip dated 11.1.94 (Annexure A/2), Dr. Kanta Tiwari has only recorded "advice same to as advised by the Jaipur Fertility & Medical Research Centre". My attention was also drawn to a note recorded on 6.4.96 by Dr. Shila Sonker, DMO, Railway Hospital, Jodhpur, from which it is clear that the applicant's wife had approached her only for providing some medicines from the Railway hospital and not for either getting referred or seeking approval for being treated in a

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private hospital. Further, the authorities had expressed their inability even to supply medicines based on the advice given by the Jaipur Centre. As a measure of immediate relief, they had made available only two injections. In spite of all this, the applicant or his wife did not make efforts to either get her case referred or seek approval for being treated in a private hospital. The respondents made it clear that the fact remains that they had never referred the case of the applicant's wife to Jaipur Centre. It is also mentioned that even if a case is referred by an Authorised Medical Attendant (AMA, for short) the essentiality certificate issued by the Medical Superintendent of the concerned private hospital is to be counter-signed by AMA or any other medical officer before reimbursement can be made. Although, earlier the wife of the applicant also received some treatment at Ahmedabad, even at that time no effort was made by the applicant to obtain necessary "reference" or "approval".

4. I have carefully considered the arguments put forward by the learned counsel for the parties and also perused the records. It is clear that a Railway employee or his dependents are helped in obtaining medical treatment in four ways. Firstly, they are entitled to receive free treatment in the Railway hospitals. Secondly, an AMA could refer them to a hospital in case adequate treatment facility are not available at the local Railway hospital. Thirdly, the employee could obtain prior approval for treatment in a private hospital and fourthly, in case of emergency, the patient could be moved straight away to any hospital and the reimbursement of cost equivalent to what would have been incurred in certain premier hospitals of the country could be made by the Railways. In this case, the patient had received some treatment in the Railway hospital but thereafter, chose to get treated in private hospitals, first at Ahmedabad and then at Jaipur. There is nothing on record to show that her case was either referred by a

competent Railway doctor or necessary approval from the competent authority was obtained for taking treatment in a private hospital. As regards the 4th alternative, I could not, even by stretching the definition of emergency to the maximum limit, put the infertility spanning over many years as the case of emergency. The Chief Medical Director in his letter dated 20.1.1995 (Annexure A/6) has also stated that it was not an emergency. The applicant has also not been able to place on record anything to show that infertility is as one of the ailments that comes under the category of emergency ailment. I have my sympathies with the patient in this case because the trauma of not being able to become a mother must be quite disturbing and to spend a heavy amount of more than Rs. 1 lac also must have been quite a burden on the family. However, I have to, function within the parameters set by the rules and cannot superimpose my sympathy over the rules and, therefore, not in a position to allow the application and order provision of reliefs sought. The learned counsel for the applicant has also cited as many as six cases to help his case: 1998 SCC (L&S) 1713, Devindar Singh Shergil vs. State of Punjab : The case is of malignant growth in the kidney and, therefore, well within the category of 'emergency case'. On being informed by the Post Graduate Institute, Chandigarh that no accommodation was available, the patient was taken to U.K. for operation. The Punjab Government sanctioned Rs. 20,000/-, but the Apex Court, on the applicant's petition, asked to sanction another Rs. 75,000/-. AIR 1997 SC 1225, State of Punjab vs. Mohinder Singh Chawla : The patient had sudden heart ailment and the matter related to Government not reimbursing certain portion of the expenditures. AIR 1989 SC 2039, Pt. Parmanand Katara vs. UOI : The case related to general problem faced by accident victims and the doctors not attending till a police case is registered. The Hon'ble Supreme Court had ruled in this case that it was a duty of the men in

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the medical profession to render all the help to such accident victims. AIR 1996 SC 1388, Surjit Singh vs. State of Punjab: The patient developed heart problem and took leave to go to his son in England and got bye-pass surgery done there. The Addl. Advocate General during hearing in the High Court offered to pay the cost as could have been incurred in AIIMS. The Apex Court on applicant's petition allowed the cost that would have been incurred had the treatment been taken at Escort Heart Institute. CAT (Bombay Bench) OA No. 135 of 1990, N.B. Rao vs. UOI, 1995 (2) ATJ 542 : In this case also, the applicant suffered heart attack and was only reimbursed part expenditures. The Tribunal ordered reimbursement of additional expenditures. 1997 (2) A.T.J. 200, Dr. G.P. Srivastava vs. UOI & Ors.: This case also related to heart attack. Here also, part reimbursement was done and the Tribunal ordered reimbursement of the balance expenditures. It is, therefore, clear that all these cases are distinguishable from the present one. In fact, they all related to reimbursement concerning emergency ailments whereas this was not so. These cases, therefore, do not help in enabling me to allow the application.

5. In view of the above, the application does not stand and is, therefore, dismissed with no order as to costs.

Chawla
5-5-99
(N.P. NAWANI)
Adm. Member

cvr.

Pls see
copy of order sent

to Sh. S.K. Misra Adm
by Regd Ad. Vide

15/7/06
N. —

act. 15/7/06

wt
1/7/06

Part II and III destroyed
in my presence on 5-7-06
under the supervision of
Section Officer (J) as per
order dated 16/5/06

M
Section Officer (Record)