

I-9
R-8

CENTRAL ADMINISTRATIVE TRIBUNAL,
JODHPUR BENCH,
JODHPUR.

O.A.NO.226 OF 2005

2.11.2006

CORAM : HON'BLE MR.KULDIP SINGH, VICE CHAIRMAN (JUDICIAL).

Dungar Singh S/o Shri Birda Ram Ji, aged about 36 years, by Caste-mali, resident of Chaturavata Bera, Mandore Road, Jodhpur (Raj), at present working as T.O.D. Under Central Ground Water Board (in short C.G.W.B), Jodhpur (Raj).

By : Mr.Y.K.Sharma, Advocate.

Applicant

Versus

1. Union of India through Secretary, Ministry of Water Resources, New Delhi.
2. Chairman, Central Ground Water Board, N.H.IV, Faridabad (Haryana).
3. Executive Engineer, Central Ground Water Board, C-8, Saraswati Nagar, Pali Road, Jodhpur (Raj).

BY : Mr.Vinit Mathur, Advocate.

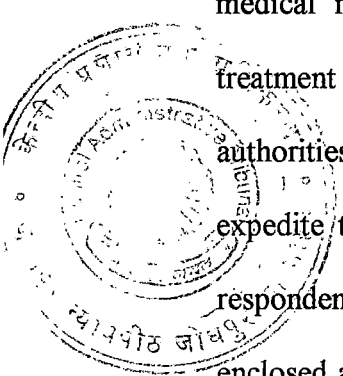
Respondents

ORDER (ORAL)

KULDIP SINGH, VC

The applicant who is a class IV employee is aggrieved by order dated 18.12.2004 (Annexure A-1) by which his claim for medical reimbursement for Rs.7,887/- has been rejected on the ground that it is barred by time.

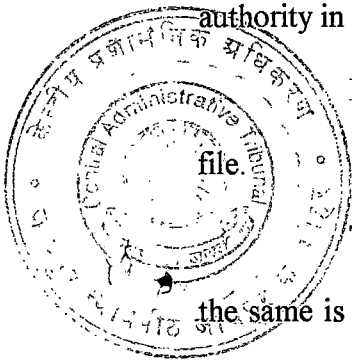
The facts in brief as alleged by applicant are that applicant submitted a medical reimbursement claim of Rs.7,887/- vide representation dated 27.3.1996 for treatment of his father in emergency, Annexure A-2. The applicant approached the authorities from time to time and respondent no.3 has asked the respondent no.2 to expedite the payment of medical claims. Various communications took place between respondent no.3 and respondent no.2, in 2002, 2003, 2004 etc. copies of which are enclosed as Annexures A-3 to A-11. Vide Annexure A-8, the respondent no.2 had asked to issue emergency certificate about admission of father of applicant in Bombay Hospital. The Bombay Hospital replied vide letter dated 28.10.2004 that record of the period for which the certificate is required has been destroyed as per policy of the Hospital. The copy of the said letter (Annexure A-13) dated 28.10.2004 was submitted by applicant vide representation dated 23.11.2004 (Annexure A-12). Annexure A-16 is an extract of



[Handwritten signature]

letter dated 31.7.2001 which shows that regarding passing of old pending medical bills earlier to September, 1998, efforts will be made to clear these pending bills within 3 months. After that an official will be sent to Pay & Accounts Officer, CGWB, Faridabad for finalizing the same. This decision was takenⁱⁿ JCM Meeting held in 2001. In the meeting held on 12.5.2004, the respondent no.2 had given instructions to look after the pending bills and ensure its clearance within a month, but still the payment was not made. However, ultimately the respondents rejected the claim of applicant vide order, Annexure A-1 on the grounds of delay which is not tenable as it is respondents who have been tossing the claim of the applicant on one ground or the other and as such the delay cannot be attributed to the applicant.

The respondents have filed a reply to oppose the O.A. They submit that the emergency medical claim of the applicant was received for the first time in March, 2004 for the treatment taken in 1996. The applicant has not submitted emergency certificate also which is required within one month from the discharge. The Chairman has disallowed the claim of reimbursement of the applicant on 18.12.2004 being belated one. The applicant had not submitted his medical reimbursement claim to the competent authority in time. Thus, they support the impugned order.



I have heard learned counsel for the parties and perused the material on the

file. The respondents have rejected the claim of the applicant on the ground that the same is belated one. However, we find that the applicant had submitted the medical reimbursement claim vide Annexure A-2, dated 27.3.1996 itself to Executive Engineer, Central Ground Water Board, Jodhpur, respondent no.3. Reply has been filed by all the respondents. It is not disputed by the respondents in the reply that the said Bill was in fact submitted to the respondent no.3 in 1996 itself. However, it is submitted that the applicant did not submit his medical claim through proper channel. Applicant was a group-D employee. If the bill was required to be submitted through proper channel to any other authority, he should have been asked by the respondent no.3 to do the needful. Moreover, respondent No.2 asked the respondent no.3 vide letter dated 20.12.2002 to expedite the payment of medical bills. In this letter, bills worth lacs of rupees have been mentioned including those of Group D employees to the extent of Rs.1,25,918/- etc. and the bill of Rs.7887/- has been mentioned separately.

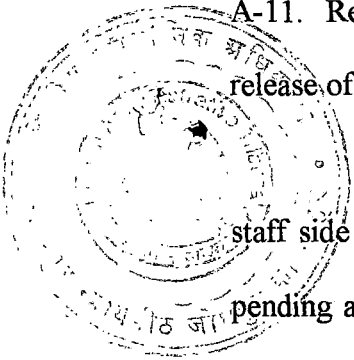
[Handwritten signature]

The respondent no.3 asked the Pay & Account Officer, CGWB, Faridabad, to take action for pre audit of medical claim of applicant. The said authority asked the respondent no.3 certain queries with regard to claim of applicant such as non furnishing of emergency certificate etc. This was duly replied to by letter dated 30.7.2003 (Annexure A-6) by R.No.3. Respondent No.3 asked the PAO CGWB, Faridabad, that father of applicant was dependent upon him. The claim is admissible as the Bombay Hospital, Mumbai is authorized one and since the applicant was Group D employee and was not aware about the rules and as such could not obtain certificate of emergency and submission of same may be exempted. In reply, the respondent no.3 was informed that sanction of HOD may be obtained for passing payment of Rs.7887/- which was submitted duly pre-checked.

However, office of respondent no.2 again raised an objection that emergency certificate is not attached and as to why applicant did not approach for payment of medical claim for such a long period. The respondent no.3 vide communication dated 8.7.2004 (Annexure A-9) has admitted that the applicant has been approaching him for release of payment and in turn he has been requesting the higher authorities for release of early payment. Then applicant was asked to submit emergency certificate which could not be issued by concerned Hospital for want of record. Which is apparent from Annexure A-11. Respondent No.3 again made a request on 3.12.2004 (Annexure A-14) for early release of payment.

From the extract of letter dated 12.5.2004 (Annexure A-15) it is apparent that staff side had pointed out that the reports are being received that medical bills are still pending and as an example, the medical bills of Jodhpur office were cited. The Director (A) was directed by the Chairman to look after the remaining medical bills and ensure its clearance within a month of its receipt. Similar decision as also taken in 2001 (Annexure A-16).

From the sequence of events it is apparent that the applicant had submitted the medical claim well in time and it is the respondents who have been instrumental in delaying the claim. If the bill was not submitted to the competent authority through proper channel, the fault also lies with the respondents themselves. Office of the respondent no.3 should have asked the applicant to submit the bill through proper to the competent authority. Moreover, they have asked the applicant to submit emergency



[Handwritten signature]

certificate for the first time in 2004 and when the applicant approached the concerned Hospital, they informed that it is too late in the day for them to produce such certificate as records were destroyed. Moreover, the Chairman himself had directed in 2004 (Annexure A-15) to Director (A) to ensure clearance of the medical bills in a month of its receipt. Now it does not lie in their mouth to say that the bill was submitted by the applicant late and it is a belated claim. It is very strange that the delay was caused by the respondents and claim of the applicant has been rejected on the ground of such delay. The respondents have not explained as to what prejudice has been caused to them because of delay. Moreover, it is settled law that delay bars remedy through a court of law and it can not be used by respondents to deny a claim of medical reimbursement, particularly in the facts of the present case.

In my view, this is a fit case where the competent authority should have taken steps to condone the delay, if any, in submission of claim of applicant particularly when the delay was contributed by the department itself. The impugned order, Annexure A-1, is quashed and set aside. Respondents are directed to consider and pass the medical claim of the applicant without insisting upon submission of emergency certificate or delay and make the payment of admissible amounts ^{relating to} within a period of three months from the date of passing of this order. In the peculiar facts of this case, there shall be no order as to costs.


(KULDIP SINGH)
Vice Chairman

HC*

21/02/14
06/11/06

Part II and III destroyed
in my presence on 11/5/14
under the supervision of
section officer () as per
order dated 31/01/14



Section officer (Records)

9
13/11