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**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH**

**ORIGINAL APPLICATION NO. 47/2007
JODHPUR : THIS THE 3RD SEPTEMBER, 2008.**

CORAM :

**Hon'ble Mr. D. Sankarankutty, Judicial Member
Hon'ble Mr. Tarsem Lal, Administrative Member**

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L.R. Purohit S/o Shri Lal Singh retired Senior Telegraph Master, aged about 70 years, Resident of Gayatri Niwas, Subhash Marg, Masuriya, Jodhpur, Official Address : Retired Senior Telegraph Master of CTO, Jodhpur.

.....Applicant.

VERSUS

- 1- The Union of India through the Secretary, Ministry of Communication, Department of Telecom, Sanchar Bhawan, New Delhi.
- 2- The Controller of Communication (Accounts), D.O.T. Cell, Department of Communications, Office of the C.G.M. Rajasthan Circle, Jhalani Doongri, Jaipur (Rajasthan).
- 3- The Chief General Manager, (DOT Cell), Jaipur - 309 009.
- 4- The General Manager, Telecom District, Subhash Nagar, Jodhpur (Rajasthan)-342008.
- 5- The Accounts Officer (TA), Office of the G.M. (Telecom), Subhash Nagar, District Jodhpur.
- 6- Sub Divisional Engineer (SDE) i/c C.T.O. Taragarh, Sardarpura, Jodhpur.
- 7- The Divisional Engineer (DE), Telegraph, Taragarh, Sardarpura, Jodhpur.
- 8- The Union of India through the Secretary, Ministry of Health and Welfare, New Delhi.

.....Respondents

**Mr. Manoj Bhandari, Advocate, for applicant present.
Mr. K.D.S. Charan, holding brief of Mr. Kuldeep Mathur for respondents No. 1 to 8.
Mr. Kamal Dave, Advocate, also present for respondent Nos. 1 to 7.**

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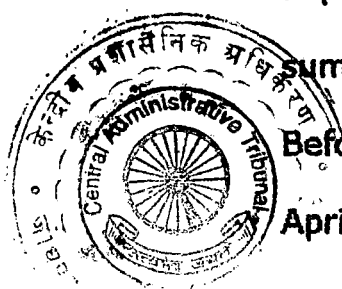


**ORDER [ORAL]
PER D.SANKARANKUTTY, M [J]**

This O.A. has been moved against the order dated 30th January, 2006 (Annex.A/1) whereby, request of applicant for 'Medical Reimbursement' has been rejected by the Assistant Chief (Accounts) Officer, BSNL, Jodhpur, on the ground that applicant was not the employee of BSNL and resultantly, his claim was not entertained. The applicant, has mainly sought for the following relief:-

" By an appropriate order or direction, the impugned order dated 30.1.2006 (Annex.A/1) may kindly be declared illegal and be quashed and the respondents be directed to reimburse the medical expenses to the tune of Rs. 1,30,073/80 incurred by the applicant for Angiography and induction and implantation of Pace Maker in his Heart, w.e.f. 2.10.2004 along with interest @ 18% per annum from the date the same had become due till the date of payment."

2. The facts of the case as narrated by the applicant are that applicant was working in the erstwhile Telegraph Department under the General Manager (Telecom) and retired from service as Telegraph Master on 31st July, 1995. After retirement, the applicant fell ill and suffered Heart-attack on 2nd April, 2004 and he remained admitted in ICU of M.G. Hospital up to 6th April, 2004 and was advised by the Cardiologist to under-go a medical surgery to induct Pace-Maker. As no such facility was available at M.G. Hospital, the Pace Maker was implanted at Escort Goyal Heart Centre, Jodhpur; a copy of discharge summary report dated 2nd October, 2004, is enclosed as Annex. A/2. Before implantation of the Pace Maker, Angiography was also done in April, 2004 at the said hospital.



3. The total expenditure incurred on Angiography and later on for the implantation of Pace-Maker, was Rs. 1,30,073/- including the value of Pace Maker purchased from Sun Medical System on 30th September,

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2004 costing Rs. 60,000/-, Hospital charge, firstly incurred in April, 2004 Rs. 28,050/- and subsequently, at the time of implantation of Pace Maker to the tune of Rs. 40,800/-. Applicant submitted medical expenditure bills to the respondent-department on 2nd July, 2004 for re-imburement. Applicant, thereafter, made a representation on 6th January, 2006 (Annex.A/6) and in reply to that respondent No. 6 informed the applicant vide his letter dated 20.1.2006 (Annex.A/7) that his application for medical reimbursement claim has been forwarded to the higher authorities.

4. The respondents vide order dated 30th January, 2006 (Annex.A/1) addressed to the applicant, informed that since he is not an employee of the BSNL and retired in the year 1995 before formation of the BSNL, his request for medical reimbursement cannot be entertained.

5. It is submitted in the O.A. that applicant is the erst-while Telecom employee and for that purpose, Special Cell has been created known as Department of Telecommunication Cell (D.O.T. Cell) on 28th September, 2000 which had been framed in order to decide the grievances of the employees of the Department of Telecommunication.

The cases of the retired personnel are required to be processed by the BSNL Circle Headquarter as Head of the Office and then submitted to the D.O.T. Cell. It has also been contended that necessary budget has been provided by the BSNL, and, therefore, applicant has impleaded the D.O.T. Cell, constituted at Circle Headquarter w.e.f. 1.10.2000, as respondent No. 2 in the O.A. Even though, it has been stated by the applicant that a copy of the communication dated 28.9.2000 issued by



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-4-
the Government of India, Department of Telecom, constituting D.O.T. Cell shall be kept ready for our perusal, however, the same has not been made available in this O.A.

6. The applicant has made a specific contention that he is not being paid any cash medical allowance and in case of heart-disease, there is no facility available in the P&T Dispensary at Jodhpur, therefore, he had to go to M.G.Hospital when he suffered heart-attack in 1999.

7. The applicant has also made an averment that the Government of India, Ministry of Health, vide its Memorandum/Circular dated 5th June, 1998 has provided that the benefits under Central Services (Medical Attendance) Rules, 1944, [for short 'the Rules'], should be extended to the pensioners residing in the areas not covered by the C.G.H.S. The object behind the Scheme was to extend the medical facilities to the ailing employees in the country irrespective of the place where they are residing, including the pensioners. Here, at Jodhpur, where the applicant is residing, no such medical facility, is available where the ex employees of the erstwhile department of telecom, can take treatment or avail medical attendance during emergency. The applicant had no other option than to approach the M.G. Hospital in the year 2004 for emergency treatment for heart attack. But, since the facility was not available in M.G. Hospital, Jodhpur, the applicant was referred to the Escort - Goyal Heart Centre, Jodhpur, where the pace-maker was implanted to the applicant.

8. Respondents have filed reply disputing the averments made in the O.A. The main plea raised is that the Rules of 1944 (supra) are not



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applicable to the retired employees of the respondents, hence, applicant could not claim re-imbursement of expenses of his heart-ailment from them. Apart from this, they have also taken a ground that applicant is not a Member of BSNL as he stands retired much before the formation of BSNL, therefore, the above preferred grievance can't ipso facto, make him their employee. The respondents have incorporated O.Ms. dated 20th August, 2004 and 5th June, 1998, along with reply as Annex. R/1 and R/4.

9. We have heard the learned counsel for both sides and perused the record of the case.

10. The main thrust of the argument of Mr. Manoj Bhandari, is that this Tribunal in OA No. 287 of 2005 dated 20th December, 2006, had the occasion to consider an identical OA [Pukh Raj Gehlot Vs. UOI & Ors] not only this, the High Court also confirmed such orders preferred before different Benches of the Tribunal. Further, it is also an admitted position that the very same issue is pending decision before the Hon'ble Supreme Court in a S.L.P. which has been taken into consideration by this Tribunal at the time of deciding the Pukh Raj Gehlot's case (supra). Mr. Bhandari, learned counsel for applicant strenuously submitted that looking to the entire facts, the O.A. should be allowed by passing similar orders.



11. Learned counsel for respondents have submitted that if at all the amount so claimed, is ordered to be paid, the applicant may be directed to furnish sufficient security so as to enable the respondents

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to recover the same, if the decision on the issue before the Hon'ble Supreme Court goes against him.

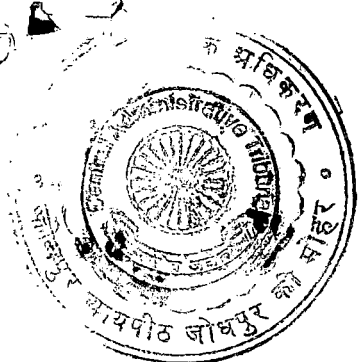
12. We find force in the arguments put forward by learned counsel for applicant and are of the view that decision rendered by this Tribunal in O.A. No. 287 of 2005 on 20th December, 2006 [Pukh Raj Gehlot's case] is identical and such orders will equally be applicable in the instant case. In Paras 10 and 11 of the said order, the Court observed as under :-

"10. As regard the effect of aforesaid development is concerned, it was submitted that we might wait for the final judgment in the aforesaid case. The said development would not cause any hurdle or obstruction in deciding this case on merits. We take judicial notice of the one of the elaborate decision of the co-ordinate Bench of the Tribunal at Principal Bench in O.A. No. 745 of 2005 (Ram Sewak & Another Vs. UOI & etc.) dated 23.8.2005. The judgment also gives a complete answer to the aforesaid defence version of the respondents. We find it expedient that para 21 & 22 should be reproduced and the same are reproduced as under :-

"21. As regards pendency of SLP before the Apex Court against the affirmed decision of the Chandigarh Bench of the Tribunal by the High Court of Punjab and Haryana, it is trite law that unless the decision is overturned, reversed or modified the decision of the High Court or the Tribunal remains as precedent and as per the decision of the Apex Court in S.I. Rooplal & Anr. V. Lt. Governor of Delhi and Others, JT 1999 (9) SC 597 the doctrine of precedent has to be respected. We are bound to follow the decision of the Full Bench. A Full Bench of this Tribunal in Ganga Ram v. Union of India reported in CAT Full Bench Judgements Vol. II 441 (Bahri Brothers) categorically held that a non speaking interim order in SLP is not a declaration of law and is not binding under Article 141 of the Constitution of India unless the decision of the High Court of Punjab and Haryana, affirming the decision of the Chandigarh Bench of the Tribunal is set aside, reversed or modified by the Apex Court the same remains effective.

22. Following the above, we respectfully agree with the decision of the Full Bench and are also bound by the decision of the High Court of Punjab and Haryana as well as the decision of the Chandigarh Bench of the Tribunal where clause 14 of the restructuring scheme has been set aside. We follow the same."

11. In the premises, we reach to an inescapable conclusion that there is ample force in this Original Application and the same deserves to be allowed which we direct accordingly. The impugned order dated 17.3.2004 (A/1) is hereby quashed. The



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respondents are directed to reimburse the medical expenses incurred by the applicant for his treatment as prayed for but without any interest, within a period of three months from the date of receipt of this order. However, the same shall be subject to the outcome of SLP in Bapat's case supra pending before the Hon'ble Apex Court. No costs."

13. In view of what has been discussed above, the impugned order at Annex. A/1 dated 30th January, 2006 is hereby quashed and respondents are directed to reimburse the entire medical expenses incurred by the applicant for his heart-ailment, as claimed, but without any interest. This exercise shall be completed within a period of three months' from the date of receipt of a copy of this order. However, the same shall be subject to the outcome of SLP in Bapat's case (supra) pending before the Hon'ble Supreme Court.

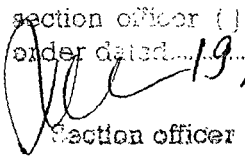
14. No order as to the costs.



Tarsem Lal
(Tarsem Lal)
Member (A)

(D. Sankarankutty)
Member (J)

Part II and III destroyed
in my presence on 15/12/14
under the supervision of
section officer () as per
order dated 19/8/2014


Section officer (Record)

R/C
Dy. Commr
16.09.08

R/C
Dy. Commr
for Kuldeep Mathur
16/9/08

Rear Com
Keeval
19/09/09