

22

CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR

O.A. No. 589/2011

Jodhpur this the 1st August, 2013.

CORAM

Hon'ble Mr. Justice Kailash Chandra Joshi, Member (J)

Bhanu Pratap Singh S/o late Satyanarain Pal Singh aged about 64 years, R/o Begubd Oil Mill, Gali No 14, Rampura basti, Bikaner, Rajasthan. Retired from the post of Senior Scientist in the office of Central Arid Zone Research Institute, Regional Research station Bikaner, Rajasthan.

.....Applicant

(Through Advocate Mr S.K. Malik)

Versus

1. The Indian Council of Agriculture Research through its Secretary Agriculture Research & Education, Krishi Bhawan, New Delhi.
2. The Director Central Arid Zone Research Institute, Jodhpur.
3. The Assistant Administrative Officer, Central Arid Zone Research Institute, Regional Research Station, Bikaner, Rajasthan.

(Through Advocate Mr A.K. Chhangani)

..... Respondents

ORDER (Oral)

The present application has been filed by Shri Bhanu Pratap Singh under Section 19 of the Administrative Tribunals Act, 1985.

2. The short facts of the case are that the applicant was working on the post of Sr. Scientist in the office of Central Arid

2

Zone Research Institute (CAZRI), Regional Research Centre, Bikaner. When wife of the applicant fell sick, she was taken to PBM Government Hospital, Bikaner where she was given treatment and the medicines were prescribed. The applicant submitted the medical bill of Rs 6591/- with certificate 'A' out of which Rs 698/- was paid to him. Again on 20.01.2010 the applicant's wife got admitted in PBM Government Hospital and Medical College, Bikaner in serious condition of heart attack and she was referred to higher center for further management after prescribing medicines. Since the condition of wife of the applicant was serious, he was left with no option but to take his wife to Jaipur Heart Institute, Jaipur on 26.01.2010 for coronary angioplasty where she was discharged on 30.01.2010. The applicant submitted a medical bill alongwith medical documents before respondent No. 3 vide letter dated 19.04.2010. The respondent No. 3 vide letter dated 16.10.2010 asked the applicant to submit certain documents. The applicant submitted certificate that the hospital in which his wife got treatment was empanelled and recognized by the CGHS alongwith wrappers of two stents used in medical treatment of coronary angioplasty. The applicant after attaining the age of 62 years retired on superannuation. The applicant filed fresh representation dated 09.08.2010 for reimbursement of medical claim for treatment of his wife. The respondent No. 3 vide order dated 23.02.2011 (Annex. A/1) informed the applicant that medical claim of his wife amounting to

24

Rs 2,89,506/- was sent to respondent No. 2 for reimbursement as audit has not cleared the bill for payment. The objection of the audit is that Jaipur Heart Institute Jaipur Hospital, Jaipur is a private hospital and not recognized under CGHS, whereas the fact remains that said hospital is recognized one. The applicant has annexed 11 documents with this OA and sought following relief

(s):

- (i) By an appropriate writ order or direction impugned order dated 23.02.2011 at Annex. A/1, and impugned order dated 05.05.2011 at Annex. A/2 be declared illegal and be quashed and set aside as if they were never issued against the applicant.
- (ii) By an order or direction respondents may be directed to make payment of reimbursement of medical bill amounting to Rs 3,05,965/- alongwith interest @ 12% per annum.
- (iii) Exemplary cost be imposed on respondents for causing undue harassment.
- (iv) Any other relief which is found just and proper be passed in favour of the applicant in the interest of justice.

3. By way of reply the respondents denied the right of the applicant to have the reimbursement of the bills submitted by the applicant and the money incurred on the treatment of his wife amounting to Rs 3,05,965/- and further contended that Jaipur Heart Institute, Jaipur is a private hospital and the same was not recognized by the CGHS and annexed document Annex. R/5 in support of their contentions. It has been further averred in the reply that the applicant is not entitled to get the reimbursement of the amount incurred on treatment of his wife as the same was not

2

25

found as per rules because his wife was treated in a private hospital which is not recognized by the CGHS. In support of their contentions the respondents have annexed 9 documents Annex. R/1 to R/9.

4. By way of rejoinder, the applicant reiterated the same facts and denied the facts averred in the reply.

5. Heard both the parties. Counsel for the applicant contended that it was a case of emergency and when the doctors of PBM Government Hospital, Bikaner referred the wife of the applicant to higher centre for further management, there was no option except to approach Jaipur Heart Institute, Jaipur for treatment. The wife of the applicant was given treatment and coronary angioplasty was done putting 2 stents and therefore, in the case of such an emergency situation the expenditure incurred by the applicant is required to be reimbursed by the respondent department. In support of his argument he relied upon the judgment of the Hon'ble Apex Court passed in Suman Rakheja vs. State of Haryana and Annr. reported in 2006 SCC (L&S) p. 890, CAT Principle Bench judgment dated 28.09.2007 passed in OA No. 821/2007 and judgment of this Bench dated 17.04.2008 passed in OA No. 137/2007. He contended that in emergency cases such technical objections should not be raised by the department because medical reimbursement is not a bounty and right to life is

2

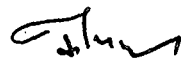
a guaranteed fundamental right under Article 21 of the Constitution of India. In such an emergency situation one cannot foresee that such a hospital is recognized or whether there has been a referral from the Government of such treatment.

6. Per contra, counsel for the respondents contended that this is not a case of emergency as averred in the reply because after referring by the doctors of the PBM Government Hospital, Bikaner the applicant could have approached the hospitals recognized by the CGHS and when there is no case of emergency, the bill can only be passed as per rules. In support of his argument he relied upon the judgment of the Hon'ble Apex Court reported in 2011 (4) SCC p. 257 State of Rajasthan v. Mahesh Kumar Sharma.

7. Considered rival contentions of both the parties. The applicant was informed by Annex. A/1 and A/2 regarding the rejection of his medical claim for treatment of his wife. In my considered view the communications made vide Annex. A/1 and A/2 are not as per the provisions of law because the respondent-department ought to have considered the claim of the applicant as per rules and department ought to have made payment to the applicant to the extent admissible under rules or at least to the extent of amount incurred on medicines or bills submitted by him for treatment in PBM Government Hospital, Bikaner. In spite of making any payment, the respondent-department simply rejected

the claim without stating any reason whether he is entitled to get the reimbursement of any amount from the bills as per rules or not. Therefore, in my considered view Annex. A/1 and A/2 cannot be sustained in the eyes of law.

8. Accordingly, Annex. A/1 and A/2 are quashed and the OA is disposed of with the direction to the respondent-department to reimburse the medical claim of the applicant for treatment of his wife as far as permissible under the relevant rules and if any payment is not permissible, then to inform the applicant by a speaking and reasoned order specifying the relevant rules/provisions/orders of the Govt within a period of one month from the date of receipt of this order. So far as interest on the amount of reimbursement is concerned, the applicant may raise his objection to the competent authority in the respondent-department regarding interest on reimbursement. Thereafter, if any grievance remains with the applicant, he may approach this Tribunal, if so desires. There shall be no order as to costs.



(JUSTICE K.C. JOSHI)
JUDICIAL MEMBER