

CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR

Original Application No.28/2012

Jodhpur this the 1st day of May, 2014.

CORAM

Hon'ble Mr. Justice Kailash Chandra Joshi, Judicial Member
Hon'ble Ms. Meenakshi Hooja, Administrative Member

Birdhi Chand Mali s/o late Shri Ram Pal Mali, aged about 64 years r/o
Near Saini Provision Store, Merta Road, Tehsil Merta City, Rajasthan

.....Applicant

(Through Advocate Mr. Manoj Bhandari)

Versus

1. Union of India through the Secretary, Ministry of Telecommunication and Information Technology, Bharat Sanchar bhawan, Janpath, New Delhi.
2. The Chief General Manager, BSNL, Rajasthan Circle, Jaipur
3. General Manager, Telecom, BSNL, District Bikaner
4. Divisional Engineer (Administration), BSNL, District Bikaner.
5. Sub Divisional Engineer HR/Administration, Office of GM, Telecom Department, BSNL, District Bikaner.

..... Respondents

(Through Advocate: Mr. Vinit Mathur for resp.No. 2 to 5, none for resp. No.1)

ORDER (ORAL)

Per Justice Kailash Chandra Joshi, Member (J)

The applicant by way of present application filed under Section 19 of the Administrative Tribunals Act, 1985, has challenged the communication dated 11.11.2011 (Ann.A/1), 3.9.2011 (Ann.A/2) and

19/27.4.2011 (Ann.A/3) whereby the respondents have denied the medical reimbursement to the applicant, and therefore, he has prayed for the following reliefs:-

- (i) By an appropriate order or direction, the impugned order passed by respondents dated 11.11.2011 (Annex-A/1) rejecting the case of the applicant for medical reimbursement may kindly be declared illegal and be quashed and set aside.
- (ii) By an appropriate order or direction, the impugned order passed by the respondents dated 3.9.2011 (Annex-A/2) rejecting the case of the applicant for medical reimbursement may kindly be declared illegal and be quashed and set aside.
- (iii) By an appropriate order or direction, the impugned order passed by the respondents dated 19/27.4.2011 (Annex-A/3) rejecting the case of the applicant for medical reimbursement may kindly be declared illegal and be quashed and set aside.
- (iv) By an appropriate order or direction, the respondents be directed to reimburse the amount of Rs. 3,01,000/- towards the medical reimbursement claim for indoor treatment of Angiography and Angioplasty (heart disease) from the Sterling Hospital, Ahmedabad which is a recognized hospital by the respondents BSNL, in accordance with law.
- (v) By an appropriate order or direction, it may be declared that the applicant is also entitled to confer the interest on the actual expenses incurred by the applicant for his Angiography and Angioplasty done at Sterling Hospital along with interest @ 18 % per annum from the date the same had become due till the date of payment.
- (vi) Any other appropriate order or direction which this Hon'ble Tribunal may deem fit just and proper in the facts and circumstances of the case may kindly be passed in favour of the applicant.

2. Brief facts of the case, as stated by the applicant, are that the applicant is a retired employee of Bharat Sanchar Nigam Limited (BSNL). The applicant retired from the post of Senior Sub Divisional Engineer on 31.8.2008. He is also holder of Rajasthan Pensioner

Identity Card and also Medical Card issued by the BSNL. When the applicant was traveling to Ahmedabad in the night of 14.12.2010 he suddenly felt uneasy and unhealthy, therefore, he was taken immediately on 15.12.2010 morning to the Sterling Hospital, Ahmedabad, which is a recognized hospital by the BSNL. In the hospital it was found that the applicant has suffered a heart attack and the fact of admission and the expenses for the treatment of the applicant in the hospital was communicated by the son of the applicant and permission was sought from the General Manager, Telecom District, Bikaner. The General Manager issued authorization letter on 16.12.2010 and permission was granted that the applicant may be admitted in the Sterling Memorial Hospital and it was certified that the applicant is an ex-employee of BSNL and as per entitlement he may be admitted in the room. After getting treatment, the applicant submitted claim for reimbursement, but on 19th April, 2011 it was communicated that the applicant has not sought permission for indoor treatment, therefore, the case is rejected. Against this rejection, the applicant filed representation. A communication has also been issued to the applicant on 11.11.2011 along with letter dated 3.9.2011 whereby it is stated that since no permission was taken by the applicant nor any physical verification was made by the Amhedabad Branch of BSNL, therefore, it cannot be believed that the claim of the applicant is genuine. The applicant has stated that permission was granted by the GMTD, Bikaner and verification was also made by the Ahmedabad Branch and a communication was also issued in this regard on 31.10.2011 by the Assistant General Manager

5

(Establishment) to the Sterling Hospital. Therefore, the applicant claims that he is entitled for medical reimbursement and action of the respondents in rejecting the case of the applicant for medical reimbursement is arbitrary, unreasonable and discriminatory.

3. The respondents have filed reply to the OA and submitted that the procedure for medical reimbursement of medical claims for retired employees under BSNL MRS was issued by the BSNL HQ vide letter dated 23.8.2006 and as per para 3.ii of the said letter, the retired beneficiary must submit advice of any doctor registered in the allopathic system of medicine for hospitalization and copy of BSNL MRP card, but the applicant did not submit these required documents. The son of the applicant also did not mention the date of admission in Sterling Hospital, Ahmedabad in letter dated 16.12.2010 (Ann.A/5). Due to incompleteness of required formalities/documentation, grant of permission for indoor treatment at empanelled hospital outside the jurisdiction area of Rajasthan was not feasible because authenticity of the actual BSNL MRS beneficiary is decided by the copy of BSNL MRS medical card and advice letter for hospitalization which were required to be sent to the Gujarat Circle for verification of the patient. In compliance of the letter dated 16.12.2010, which was without copy of BSNL MRS Medical card and referral letter for hospitalization, the applicant has been issued authorization letter immediately and copy of the authorization was also given to AGM (Adm), Gujarat Circle for visiting the hospital to verify the genuineness of the indoor treatment of the BSNL MRS beneficiary. It has been further stated that as per

CGHS/BSNL MRS policy rules, charges of Stent/implants are reimbursed in addition to the procedure cost only after submission of VAT invoice of Stent/Implant and original sticker containing batch no./serial no./lot no./make etc. but in this case, the applicant did not submit the VAT invoice and sticker of the Stent. The applicant did not follow the instructions under BSNL MRS for taking indoor treatment for the period from 15.12.2010 to 18.12.2010 in Sterling Hospital outside the jurisdiction area of Rajasthan Circle and the claim was submitted without required documents as per rules/procedure. According to the respondents, rules and procedure for prior permission for indoor treatment outside the jurisdiction area of Rajasthan, actual verification of hospitalization of the applicant and certification of photographs of the patient on the copy of medical card by the concerned doctor under the BSNL MRS scheme are necessary to be followed by the applicant for deciding the genuineness of the claim. Thus, in the light of the facts, instructions and procedure under the BSNL MRS policy, the claim of the applicant is not justified for reimbursement and the action of the respondents is fully justified being in accordance with the rules and policy on the subject.

4. The applicant has not filed rejoinder to the reply filed by the respondents despite being given sufficient opportunity.

5. Heard both the parties. Counsel for the applicant contended that the medical bill has been submitted as per Annexure-A/6, dated 16.12.2010 and the competent authority i.e. Sub Divisional Engineer

HR/Administration, O/o GMTD,BSNL, Bikaner ordered that the applicant may be charged as per the agreed rates with the BSNL. It has been further ordered that the bills as per the agreed rates may be sent to the office for payment and the copy of the said letter has been endorsed to the AGM (Admn.) BSNL O/o GGMT, Ahmedabad with the request to depute authorized officer for visiting the hospital to verify the genuineness of indoor treatment of the beneficiary and further that the patient was admitted in ECU ward and his contact telephone number has also been referred in above letter. The counsel for the applicant contended that in spite of this order, no payment has been made to the applicant on the ground that prior permission was not obtained from the competent authority i.e. CGMT, Rajasthan Circle. The respondent department has further objected that Annexure-A/6 letter is only a authorization letter and the applicant cannot treat this as grant of prior permission for indoor treatment outside the jurisdiction of Rajasthan. It has been further contended by the counsel for the applicant that the department raised above objections after submissions of medical bills and also questioned the fact that the applicant suddenly felt uneasy in the night, therefore, was immediately taken in the Sterling Memorial Hospital, Ahmedabad, because as per the discharge ticket Ann.A/7, the applicant was admitted at 15.46 hours on 15.12.2010, which is not in conferment with the submissions made in the averments that the applicant was admitted in the hospital in the morning. Counsel for the applicant further contended that the objections raised by the department are vague and petty in nature and

they are raised just to debar the applicant from getting payment of medical reimbursement as per the rules.

5. Per contra, counsel for the respondents contended that Annexure-A/6 is not a sanction letter because as per BSNL policy, the patients treated outside the jurisdiction of the Rajasthan Circle are not entitled to get the payment by the order made by the Sub Divisional Engineer HR/Administration, O/o the GMTD, Bikander and they require the permission from GMTD Rajasthan Circle, and there was no emergency of any medical treatment at Ahmedabad as the applicant felt uneasy in the night, but he was admitted on the next day at around 4'O clock in the afternoon.

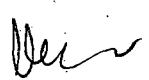
6. Considered the rival contentions of both the parties and perused the record. So far as emergency is concerned, there are minor contradictions in the discharge ticket and the averments made by the applicant regarding the time of admission in Sterling Memorial Hospital, Ahmedabad. There are cases in which patient comes to the out door of the hospital and it takes some time for formal admission in the hospital but in such cases of emergency a preliminary treatment may also be provided in the out door of the emergency wing. Therefore, the objection regarding emergent nature of the illness raised by the counsel for the respondents does not carry much force and it is not acceptable that this contradiction or minor discrepancy regarding time can affect the right of the applicant adversely.

7. So far as the objections regarding non-competency of Sub Divisional Engineer, HR/Administration, GMTD, BSNL, Bikaner is concerned, once it has been ordered by the General Manager Telecom District, Bikaner to make the payment as per agreed BSNL rates, then in our considered view, the Chief General Manager Telecom, Rajasthan Circle, ought to have considered the medical bills of the applicant sympathetically because it was a clear cut case of emergency in admitting the applicant in Sterling Memorial Hospital Ahmedabad.

8. As we have considered in the earlier paras that this is a clear-cut case of emergency in admitting the applicant in Hospital, therefore, we are proposing to dispose of this OA, while quashing the Annexure-A/1 and A/2, with following terms:-

- (i) The applicant shall file his medical bills as per the averments made in para No.12 of the reply as per rules within 2 months from the date of receipt of the order.
- (ii) The competent authority shall consider the medical bills submitted by the applicant for payment sympathetically keeping in view the order at Annexure-A/6 passed by the Sub Divisional Engineer, HR/Administration, GMTD, BSNL Bikaner and the observations made by us in the earlier paras, within four months from the date of presentation of the medical bills.

9. The OA stands disposed of accordingly with no order as to costs.


(MEENAKSHI HOOJA)
Administrative Member


(JUSTICE K.C.JOSHI)
Judicial Member

R/Rss

Received.


Copy.

Surekha

for Mr. Manoj Bhandari

9/5/14

Received by


9/5/14