

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR**

Original Application No.359/2012

Jodhpur this the 27th day of November, 2013

CORAM

**Hon'ble Mr. Justice Kailash Chandra Joshi, Member (J),
Hon'ble Ms. Meenakshi Hooja, Member (A)**

Jethu Singh Chouhan S/o Shri Gokul Singh Chouhan, aged about 57 years, R/o Bikaner, presently working as Senior Telecom Office Assistant (P) in the office of GMTD, Bikaner.

.....Applicant

Mr. Manoj Bhandari, counsel for applicant.

Versus

1. The Union of India through the Secretary, Ministry of Telecommunication and Information Technology, Bharat Sanchar Bhawan, Janpath, New Delhi.
2. The Chief Managing Director, BSNL Corporate Office, Bharat Sanchar, New Delhi.
3. The Chief General Manager, BSNL, Rajasthan Circle, Jaipur.
4. General Manager, Telecom BSNL, District Bikaner.
5. Divisional Engineer (Administration), BSNL, District Bikaner.
6. The Senior Accounts Officer (Cashier), Office of GM, Telecom Department, BSNL, District Bikaner.

.....Respondents

Mr. Vinit Mathur, present for respondents.

ORDER (Oral)

Per Justice K.C. Joshi, Member (J)

The facts giving rise to this OA are that the applicant was initially appointed as Class IV in the Department of Telecommunication at Bikaner and thereafter he was promoted as Operator in 1988. The applicant opted for BSNL and he was

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absorbed as BSNL employee vide order dated 01.10.2000 and presently he is working as Senior Telecom Officer in the office of GMTD, BSNL, Bikaner. It has been averred in the application that due to heart problem Angiography was conducted at PBM Hospital, Bikaner and on examination, it was found that three Arteries were blocked and it was suggested that the patient should get his treatment from Apollo Hospital, New Delhi. A medical board was also constituted on his request on 20.12.2008. The applicant got his surgery i.e. bye-pass from Indraprastha Apollo Hospital, New Delhi in which a sum of Rs.2,17,800/- was incurred. He was sanctioned Rs.1,30,000/- for his operation in advance. The claim for reimbursement of his treatment was rejected on 13.04.2009 on the ground that the surgery has been done at Apollo Hospital which cannot be allowed as the same was not an empanelled hospital of BSNL. Apart from this, even the respondents directed the applicant to refund a sum of Rs.1,30,000/-. However, on his representations and reminders, lastly the matter was referred to the Headquarters on 20.08.2010 as at Annex.A/15. The respondents have rejected the representations of the applicant for reimbursement of his claim as also his plea not to recover the advance amount from his salary has been rejected on 26.7.2012 (Annexure-A/1) and it has been ordered that the recovery to the tune of Rs.1,78,913/- should be made i.e. sum of Rs. 1,30,000/- which has been paid in advance and sum of Rs. 48,913/- as interest. It is contended that the action of the respondents in not granting the claim of medical reimbursement is arbitrary as he had taken prior permission and

obtained an advance amount for heart ailment by the respondents therefore, the action of the respondents is not only violative but is highly discriminatory and against the fundamental rights.

2. By way of reply, the respondents have specifically averred that after the formation of the BSNL, guidelines and instructions for implementation of BSNL Employee Medical Reimbursement Scheme was approved by the BSNL Board vide letter dated 28.02.2003 as at Annex.R/1 and instructions for operation of the Scheme was issued by the BSNL Headquarters New Delhi vide letter dated 22.04.2003 at Annex.R/2. It is mentioned in Para 1.5 of the letter Annex.R/1 dated 28.02.2003 that in order to avail the benefit of BSNL MRS all employees of BSNL including deputationists like applicant, have to opt for BSNL MRS Scheme whereby they will not be allowed the facility under CGHS and the employees opting for this scheme will be eligible for indoor treatment as per this scheme. Further, as per para 14 of letter dated 22.04.2003, an employee should intimate about his serious illness needing hospitalization to the office who will thereupon, issue an authorization letter for the empanelled hospital for the purpose. The respondents have also pleaded that as per the policy, a designated officer of the BSNL has to visit in all cases involving hospitalization of at least two days to the hospital and give a certificate in this regard and such certificate is required to be produced along with the claim. Therefore, the medical claim of the applicant for the period from 22.12.2008 to 30.12.2008 was rejected by the respondent No.3 vide Annex.A/3 letter dated

13.04.2009 keeping in mind the rules and the regulations on the subject.

3. Heard both the parties. Counsel for the applicant contended that the applicant got his medical treatment as there were blockage in all three arteries in Indraprastha Apollo Hospital Delhi and has incurred the amount of Rs.2,20,000/-.

4. Per contra, counsel for the respondents contended that the applicant got his treatment in Apollo Hospital, Delhi, and as he went to Apollo Hospital on his own request/choice and not due to any advice of any experts. Therefore, he is not entitled to get any reimbursement of the medical bills because the Apollo Hospital was not an empanelled hospital of the BSNL.

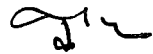
5. We have considered the rival contentions of both the parties and also perused the record. As per certificate dated 20.12.2008 (Annexure-A/6) issued by the Principal, S.P. Medical College, Bikaner, it has been certified that the patient has requested to go to Apollo Hospital, New Delhi, therefore, patient is advised to go to Apollo Hospital, New Delhi. Patient will get re-imbursement equal to cost being charged at SMS Hospital, Jaipur or as per Accounts and Finance Rules of Central Government of India. The respondent department did not allow any reimbursement charges which is not legal and therefore the order dated 26.07.2012 at Annexure-A/1 by which the applicant was directed to deposit the amount of Rs.1,30,000/- with interest of Rs.48,913/- is quashed. Further, the respondent department is directed to reimburse the medical claims

of the applicant as per his eligibility and for which he is entitled to get reimbursement as if he had been treated in any recognized or empanelled hospital as per the BSNL policy. The applicant is at the same time directed to submit the details of the expenditure to the respondent department within one month of the date of receipt of this order and the respondent department shall consider the representation to reimburse the medical claims of the applicant as per the admissible rate under the relevant rules, and the respondent department is further directed to decide the representation of the applicant and make the payment to the applicant within three months from the date of receipt of copy of the representation. Further, no interest shall be charged by the respondent department on the amount paid as an advance to the applicant.

6. Accordingly, the OA is disposed of with no order as to costs.



(Meenakshi Hooja)
Administrative Member



(Justice K.C. Joshi)
Judicial Member