

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR**

Original Application No. 290/00081/14

Reserved on: 11.03.2015

Jodhpur, this the ²⁴ ~~24~~ day of March, 2015

CORAM

Hon'ble Ms. Meenakshi Hooja, Administrative Member

Narendra Singh Panwar S/o Madan Singh aged 62 years, R/o 421, Shobhawato Ki Dhani, Opp. FCI Godown, Jodhpur. Retired Senior TOA (P) BSNL, Jodhpur.

.....Applicant

By Advocate: Mr. Girish Joshi.

Versus

1. Bharat Sanchar Nigam Ltd. through its Managing Director, Subhash Nagar, Pal Road, Jodhpur.
2. AGM (Administration in HR), BSNL, Jodhpur.

.....Respondents

By Advocate : Mr S.K. Mathur.

ORDER

This OA has been filed against the order Annex. A/1 dated 07.11.2013 issued by the respondents by which the respondents have declined the medical claim of the applicant, therefore, the applicant has filed this OA under Section 19 of Administrative Tribunals Act, 1985 seeking following relief(s):-

- (i) It is, therefore, prayed that impugned order dated 07.11.2013 (Annex. A/1) may kindly be quashed and set

- (ii) Any other favourable order which this Hon'ble Tribunal may deem just and proper in the facts and circumstances of the case may kindly be passed in favour of the applicant.
- (iii) Original Application filed by the applicant may kindly be allowed with costs.
- (iv) Each and every prayer made herein above is alternative and without prejudice to each other.

2. Brief facts of the case as averred by the applicant are that the applicant is a retired employee of the respondent-department (BSNL). The applicant fell seriously ill on 13.07.2013 and got admitted in Mathura Das Mathur Hospital (Govt. Hospital), Jodhpur and remained in hospital from 13.07.2013 to 18.07.2013. The medical condition of the applicant was critical and as such he was referred to SAL Hospital, Ahmedabad on 22.07.2013. The applicant could not go immediately after 18.07.2013 as his heart CD was not prepared. The applicant's condition further deteriorated, therefore, he left Jodhpur and got admitted on 24.07.2013 in SAL Hospital, Ahmedabd and underwent the heart operation and was subsequently discharged from there on 05.08.2013. It has been averred by the applicant that Dr Vinit Jain of M.D.M. Hospital, Jodhpur has orally stated that he should take treatment at SAL Hospital but as his CD of heart was prepared on 22.07.2013, therefore, he left Jodhpur on 23.07.2013 and reached Ahmedabad on 24.07.2013. The applicant is a member of respondents welfare

his detected heart disease, in MDM Hospital, Jodhpur by the respondent-department on 31.12.2012. It has also been averred in the OA that the applicant was seriously ill on 13.07.2013 and he was thereafter referred to SAL Hospital, Ahmedabad as such at the first instance there was no time left with the applicant to take permission/authorization to go to SAL Hospital as Dr Vinit Jain had already referred the applicant to SAL Hospital and further as soon as the applicant was admitted at SAL Hospital then doctors at SAL Hospital have taken the applicant under their supervision and the applicant was not in a position to get any permission to be treated as his life was in danger and even in these circumstances, the wife of the applicant has intimated the respondent-department through fax (Annex. A/5). The SAL Hospital, Ahmedabad raised the bill which has been paid by the applicant and the SAL Hospital, Ahmedabad has given a declaration that there is tie up between the SAL Hospital and BSNL(Annex. A/7). The applicant has also averred that to the best of his knowledge the officer of BSNL at Ahmedabad has come for physical verification and verified that the applicant is going under treatment there. The applicant submitted a claim for Rs 4.46,327/- alongwith necessary documents on 29.10.2013 but the same has been rejected vide Annex. A/1 dated 07.11.2013 on the ground that treatment has been taken outside the zone and neither any physical verification has been done nor any

3. In reply, it has inter-alia been averred by the respondents that the applicant remained indoor patient from 13.07.2013 to 18.07.2013, the petitioner remained at Jodhpur till 23.07.2013. During this period he was expected to have applied for prior permission from CGMT Jaipur. The applicant neither obtained requisite permission nor did he even apply for such permission and also did not inform the said authority. The respondents have further averred that a policy for such cases was framed by the BSNL on 30.06.2011(Annex. R/1) and according to para 'd' it is mandatory for the employee/retired employee to get the prior permission from CGMT Jaipur, if he is going to get treatment from outside the circle. The applicant was discharged from MDM Hospital, Jodhpur on 18.07.2013 and he left for Ahmedabad on 23.07.2013, hence, there was enough time to have applied for prior permission for treatment outside the circle but the applicant did not apply for the same. Thus, the claim of the applicant was not in accordance with the BSNL MRS Policy which is mandatory and infact fulfilment of requirement as per policy is to be done at SSA level for the submitting the case to the circle office for grant of permission and the applicant did not choose to apply. It has also averred in the reply that the Annex. A/5 letter written by the applicant signed by his wife, no date is mentioned and whether such fax was sent is not established, and in this letter it has been

Dr Vinit Jain was produced and moreover, no doctor can refer to a particular hospital, therefore, the applicant himself chose the SAL Hospital, Ahmedabad for his treatment. As the claim was not in accordance with BSNL MRS policy which is mandatory and as such the case was correctly rejected and accordingly the respondents have prayed for dismissal of the OA.

4. Heard both the parties. Counsel for applicant contended that vide Annex. A/1 dated 07.11.2013, the applicant has been denied reimbursement of his claim just on the ground that the applicant had taken treatment in SAL Hospital, Ahmedabad which is outside the Circle and he had not taken permission from the Circle Head and no authority letter was also issued for the said treatment. In this context, counsel for applicant submitted that the applicant was suffering from heart problem and was admitted in Govt. Mathura Das Mathur (MDM) Hospital of Dr S.N. Medical College, Jodhpur on 13.07.2013 and discharged on 18.07.2013 (Annex. A/2) and thereafter Dr Vinit Jain, Associate Professor (Cardiology) Dr S.N. Medical College, Jodhpur had referred him to SAL Hospital, Ahmedabad vide letter dated 22.07.2013 (Annex. A/3), the patient being known case of CAD & TUA and CABG and in view of his severe problems, the applicant went to Ahmedabad on 23.07.2013 and was admitted on 24.07.2013 where he underwent emergency Coronary Artery Bypass Grafting + Mitral Valve Repair surgery on

OA and submitted that in view of the reference made by Dr Vinit Jain he had no choice but to go to Ahmedabad due to the emergency and he was not in a position to get any permission as his life was in danger and even in the emergency circumstances, wife of the applicant intimated the respondents through fax to the respondent-department as may be seen from Annex. A/5. As treatment was got done on reference of the Govt. Doctor and the applicant had severe heart problem, therefore, the applicant is entitled to get reimbursement as per rules and in this regard he also relied upon the judgment of Rajasthan High Court in the case of Gyanendra Kumar Pareek vs. State of Rajasthan & Ors. reported in 2009 Vol. IV WLC page 95.

5. Per contra, counsel for respondents contended that as may be seen from the record, it was not a case of emergency or grave emergency at all, as the applicant was admitted in MDM Hospital, Jodhpur from 13.07.2013 to 18.07.2013, and the applicant remained at Jodhpur till 23.07.2013. The discharge certificate makes no mention of any further treatment and reference of Dr Vinit Jain as per Annex. A/3 cannot be considered an official reference of a Govt. Hospital and further as brought out in the reply a case cannot be referred to a particular hospital of a particular city. The applicant was discharged on 18.07.2013 from MDM Hospital, Jodhpur and he went to Ahmedabad on 23.07.2013 but he did not



and take prior permission. The applicant did not apply for permission at SSA level for forwarding the same to Circle Head and the MDM Hospital did not refer the case to SAL Hospital, Ahmedabad. Thus, it is not a case of grave emergency and the claim was not passed in accordance with BSNL MRS Reimbursement Scheme dated 30.06.2011 (Annex. R/1) which provides that prior permission is to be taken for any treatment outside the Circle or in a hospital which is not recognized. Counsel for respondents referred to provisions 1 (c), (e) and (f) of the directives issued vide Annex. R/1 under the aforesaid BSNL MRS Scheme by which reimbursement are made including during the emergency and as this case is not one of sudden and grave emergency and therefore, not covered under the same and therefore, he prayed that OA be dismissed.

6. Responding to the arguments advanced by counsel for respondents, counsel for applicant referred to para 5.2 of the OA and reiterated the facts that the applicant was hospitalized at MDM Hospital, Jodhpur on 13.07.2013 and after preparing the heart CD he was referred on 22.07.2014 to SAL Hospital, Ahmedabad and on 23.07.2013 he left Jodhpur and he was admitted at SAL Hospital on 24.07.2013 and on 29.07.2013 he underwent surgery, thus, it was a case of emergency and there was no time for the applicant to take any kind of authorization or permission as his life was at risk and he

situation can very well be imagined that soon after admission on 24.07.2013, the applicant was operated on 29.07.2013 and surgery was made. Therefore, counsel for applicant reiterated that denial of reimbursement of medical claim to the applicant is arbitrary and prayed that reimbursement may be done by the respondents as per the bill, submitted by him.

7. Considered the rival contentions of the parties and perused the record. It is seen from Annex. A/2 that the applicant was admitted to Govt. MDM Hospital of Dr S.N. Medical College, Jodhpur on 13.07.2013 and discharged on 18.07.2013. Though not very readable, this discharge certificate on the face of it apparently does not make any reference to any further treatment advised for any higher category of hospital. Annex. A/3 dated 22.07.2013 is a reference to Dr Anil Jain of SAL Hospital, Ahmedabad made by Dr Vinit Jain on his letterhead to treat the patient (the applicant presumably) who is a known case of CAD & TUA and CABG, and unlike the Discharge Certificate (Annex. A/2) it is not on the official paper of MDM Hospital, therefore, Annex. A/3 cannot be said to be an official reference of Govt. Hospital. Further, the applicant was discharged from MDM Hospital on 18.07.2013 and he left for Ahmedabad on 23.07.2013 and as he had 4-5 days, the contention of counsel for applicant that he did not have sufficient time to inform the authorities or seek permission

treated at SAL Hospital, Ahmedabad or get any permission but even the fax at Annex. A/5 which is said to have been sent by the wife of the applicant after the applicant got admitted, bears no date nor has any Fax sent receipt slip been attached. The applicant without informing the concerned authorities left for Ahmedabad on a mere letterhead reference of Dr Vinit Jain which cannot be said to be an official reference of Govt. Hospital as discussed above. It is not the case of the applicant that he fell seriously ill while in Ahmedabad and had to undergo surgery in emergency even at an unrecognized hospital and further even the reference of the letterhead of Dr Vinit Jain does not mention any emergency.

8. The BSNL policy as per para f (i) describes emergency as under:

“Emergent cases are those which involved accident, serious nature of disease etc. In such cases only, the person on the spot may use his/her discretion for taking the patient for treatment in a private hospital in case no govt. Or empanelled hospital is available near than the private hospital”.

On the basis of the analysis made above, the present case does not fit in the above definition and the directions contained in the Hon'ble High Court order dated 26.05.2009 passed in S.B.C.W.P. No. 9760/2007 do not come to rescue of the applicant because in that case, a clear cut case of emergency was established. Thus, it appears that the applicant took medical treatment in an

emergency entitling him to reimbursement as per BSNL MRS Scheme. Accordingly, there is no ground to allow the relief claimed in the OA and the same is dismissed with no order as to costs.

Meenakshi
[Meenakshi Hooja]
Administrative Member

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