

**CENTRAL ADMINISTRATIVE TRIBUNAL  
JODHPUR BENCH, JODHPUR**

Original Application No. 290/00016/14

Jodhpur this the 5<sup>th</sup> December, 2014

CORAM

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

Khajan Singh S/o Shri Ram Swaroop aged about 56 years, R/o Quarter No. T 2/1 MES Colony, Near TCP No. 3 Lalgarh Jattan, Military Station, District Sri Ganganagar, Rajasthan. Presently working on the post of JE, E/M under GE Lalgarh Jattan Military Station, Rajasthan.

....Applicant

By Advocate: Mr S.K. Malik.

**Versus**

1. Union of India through the Secretary, Ministry of Defence, Raksha Bhawan, New Delhi.
2. Garrison Engineer, (MES), Lalgarh Jattan, Military Station, District Sri Ganganagar, Rajasthan.
3. The Principal Controller of Defence Accounts, South Western Command (PCDA), (SWC), Khatipura Road, Jaipur, Rajasthan.

.....Respondents

By Advocate : Ms K. Parveen.

ORDER (Oral)

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

The applicant has filed this OA against the order Annex. A/1 dated 29.11.2013 passed by respondent No. 3 by which medical claim of the applicant has been declined.

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2. The brief facts of the case, as stated by the applicant, are that the applicant has was initially appointed as Electrician w.e.f. 19.10.1987 in the respondent department and posted at GE Hissar. After due selection, the applicant has been promoted to the post of Junior Engineer (E/M) i.e. JE E/M w.e.f. 04.01.2010 and transferred to Lalgarh Jattan w.e.f. 11.04.2013. The applicant retained Govt. accommodation at Hisar till 29.06.2013. The applicant's wife felt stomach pain and the applicant took her for treatment in Shanti Hospital, Hisar on 10.06.2013 where doctors referred her to Sir Gangaram Hospital, Delhi and the applicant took her wife to Sir Gangaram Hospital, Delhi on 13.06.2013. Thereafter, the applicant was advised to take his wife to Civil Hospital, Hisar and accordingly the applicant took his wife to Civil Hospital, Hisar on 14.06.2013 and Civil Hospital, Hisar referred the medical case of the applicant's wife to Sir Gangaram Hospital on 14.06.2013 where his wife's decease diagnosed as Live Pancreas Cancer on 18.06.2013 after receipt of various lab. reports in Sir Gangaram Hospital. The treatment of wife of the applicant has been started for the said disease from 20.06.2013 and it is continuous since then. The applicant submitted medical claim for reimbursement of expenses incurred on the medicines and other charges for treatment of her wife to the respondent No. 2 under Central Service (Medical Attendance) Rules, 1944 hereinafter CSMA Rules. The respondent No. 2 after scrutinizing the same passed an amount of Rs 75,322/- and found the claim to be genuine and correct and raised special pay bill on account of medical claim vide letter dated 12.08.2013 (Annex. A/2). Thereafter, the respondent No. 3 vide his letter dated 13.09.2013 raised objections in making payment of medical

claim and the applicant replied to all objection raised by respondent No. 3 vide his reply dated 07.10.2013. Thereafter, the respondent No. 3 vide order dated 29.11.2013 (Annex. A/1) rejected the claim of the applicant only on the ground that after joining duty as JE E/M on 22.04.2013 at GE Lalgah Jattan he has been paid Fixed Medical Allowance and treatment of his wife commenced from June, 2013. Hence, in these circumstances, he is not entitled for medical claim reimbursement. The applicant further submitted a medical claim with necessary documents amounting to Rs 77,915/- for reimbursement duly forwarded by the competent authority vide letter dated 12.11.2013 (Annex. A/5). It has been averred in the OA that in an identical matter, this Tribunal in OA No. 216/2010 (Man Singh v. UOI & Ors) has already resolved the controversy of non-granting of medical reimbursement in case of Fixed Medical Allowance. The unit of the respondent No. 2 is not having facility of civil/local body hospital/dispensary and this unit is more than 5 kms away from the city and Head of Department has obtained a certification from the appropriate authority in this regard. The employees are entitled for reimbursement of expenses incurred on medical etc. for self and their family and this aspect has been dealt with by this Tribunal in the case of Man Singh v. UOI & Ors (Supra). Therefore, being aggrieved by decline of reimbursement of medical expenses incurred on treatment of his wife, the applicant has filed this OA under Section 19 of the Administrative Tribunals Act, 1985 seeking following relief(s) :

- (i) By an appropriate writ order or direction, impugned orders dated 29.11.2013 may be declared illegal and be quashed set aside,

- (ii) By an order or direction, respondent No. 3 may be directed to pass the medical claim for reimbursement amounting to Rs 75,322/- and Rs 77,915/- and further medical claim and make payment along with interest @ 18% per annum till the date of payment.
- (iii) Exemplary cost be imposed on respondents for causing undue harassment to the applicant.
- (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 have averred that the applicant is not drawing the Fixed Medical Allowance from the Department and the applicant is entitled for medical claim reimbursement under CSMA Rules. The PCDA (SWC) i.e. respondent No. 3 raised the observations in their letter dated 13.09.2013. The respondents have further averred in their reply that it is confirmed that no medical facilities are available within the radius of 18 kms and no State/Government Local Body Hospital/Dispensary is available with qualified/specialist doctors and further prayed to dismiss the OA.

4. Heard both the parties. Counsel for the applicant contended that the wife of the applicant fell sick and an expenditure of Rs 75,322/- and 77,915/- has been incurred on her treatment. The applicant submitted the bills of both amount which have been scrutinized by the competent authority i.e. Major, Garrison Engineer, Lalgarh Jattan and scrutiny certification Annex. A/2 and Annex. A/5 were issued by the concerned authority but the claim of the applicant for Rs 75,322/- has been rejected vide Annex. A/1 dated 29.11.2013 on the ground that 'Shri Khajan Singh JE E/M has admitted in his application dated 07.10.2013 that he joined

his duties at GE Lalgah Jattan on 22.04.2013 and FMA has become applicable to him whereas treatment of his wife commenced from June, 2013. It shall make clear to the claimant that his claim would have been reimbursable if treatment of his wife were continued while he remained posted at GE Hisar. Counsel for the applicant contended that the Annex A/1 is per se illegal as per CSMA Rules because the Fixed Medical Allowance is admissible to the employee as per Rule 3 of the said Rules whereas the applicant's claim is under Rule 6 of the CSMA Rules for indoor treatment in Sir Gangaram Hospital. The rule 6 of Central Services (Medical Attendance) Rules, 1944 is reproduced below

**6. (1) A Government servant shall be entitled, free of charge, to treatment –**

- (a) in such Government hospital at or near the place where he falls ill as can in the opinion of the authorized medical attendant provide the necessary and suitable treatment; or**
- (b) if there is no such hospital as is referred to in sub-clause (a) in such hospital other than a Government hospital at or near the place as can in the opinion of the authorized medical attendant, provide the necessary and suitable treatment.**

**(2) Where a Government servant is entitled under sub-rule (1), free of charge, to treatment in hospital, any amount paid by him on account of such treatment shall, on production of a certificate in writing by the authorized medical attendant in this behalf, be reimbursed to him by the Central Government;**

**Provided that the Controlling Officer shall reject any claim if he is not satisfied with its genuineness on facts and circumstances of each case, after giving an opportunity to the claimant being heard in the matter. While doing so, the Controlling Officer shall communicate to the claimant the reasons, in brief, for rejecting the claim and the claimant may submit an appeal to the Central Government within a period of forty-five days of the date of receipt of the order rejecting the claim.**

Counsel for the applicant contended that this rule does not preclude any employee from the reimbursement who receives Fixed Medical

Allowance and therefore, rule 3 is not a bar for sanction of medical claim reimbursement under rule 6. In support of his argument, counsel for the applicant relied upon the judgment passed by Single Bench of this Tribunal in the case of Man Singh v. UOI & Ors (Supra) in which in the similar circumstances claim of the applicant was allowed.

5. Per contra, counsel for the respondents contended that the applicant is not entitled to get any reimbursement because he is working at Lalgarh Jattan and he has been relieved from the Hisar, therefore, as per rules he is not entitled to get any medical reimbursement.

6. We have considered the rival contentions of both the parties and also perused the record. Counsel for the respondents failed to show any reason for rejection of the claim of the applicant and when the applicant's wife fell sick and on reference by Civil Hospital Hissar her treatment was started at Sir Gangaram Hospital, Delhi and it is still going on. Further there is no averment in the reply to the effect that the bills and certificate filed by the applicant are not correct one and the scrutiny certificate has further fortified the claim of the applicant in view of judgment passed in Man Singh v. UOI & Ors (Supra). Counsel for the respondents contended that the Sir Gangaram Hospital is not recognized but in our view, there is no such averment in the reply so that counsel for the applicant could have an opportunity to controvert or deny the averment, as contended by counsel for the respondents. Therefore, Annex. A/1 is quashed and set aside.

7. Consequently, OA is allowed and as per legal position discussed above, the applicant is entitled to get reimbursement of medical expenses under rule 6 of Central Services (Medical Attendance) Rules, 1944, incurred on treatment of his wife. Therefore, respondents are directed to reimburse the claims of the applicant under rule 6 of CSMA Rules, 1944, within 3 months from the date of receipt of this order.

8. There shall be no order as to costs.

  
(MEENAKSHI HOOJA)  
Administrative Member

  
(JUSTICE K.C. JOSHI)  
Judicial Member

Ss/

Ree  
12/12/14

Ree  
S.K. Malik  
12/17/14