

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

0A 522/2005

TUESDAY THIS THE 20TH DECEMBER 2005

C O R A M

HON'BLE MRS. SATHI NAIR, VICE CHAIRMAN

Kesavan Carthy Ponnann S/o Narayanan
Retired Office Superintendent
Grade-I, S.E. Railway, Nagpur
Sobha Cottage, H.No. KNRA 108
Petta PO, Thiruvananthapuram

..Applicant

By Advocate M~~y~~ R.S. Kalkura

Vs

- 1 Union of India represented by Secretary
Ministry of Railway, New Delhi.
- 2 Chairman, Rail Bhavan, Railway Board
New Delhi.
- 3 Chief Medical Director,
Southern Railway Hospitals
Perambur, Chennai
- 4 Medical Superintendent,
Southern Railway Hospitals, Petta PO
Thiruvananthapuram.

..Respondents

By Advocate Mrs. Sumathi Dandapani

ORDER

The applicant is an Office Superintendent Grade I who retired from the Indian Railways on 3 1.3.19 91. He is entitled to free medical treatment in the railway hospital and was referred to the railway hospital at Perambur by the Medical Superintendent Thiruvananthapuram. The doctors at the railway hospital made a final diagnosis of the applicant's condition as coronary artery disease and he was recommended for open heart surgery. The applicant was discharged on 28.8.2004 after conducting an angiogram. He then decided to obtain a second opinion regarding his heart condition and consulted Amrutha Institute of research medical science at Cochin and the doctors requested the applicant to produce the CD of the angiogram and it was issued to him taking an undertaking that he would not make any claim for reimbursement in respect of the bypass surgery carried out in any hospital other than railway hospital. (Annexure5) and in the

C/

Amrutha Institute he was examined by the doctors who after careful analysis found a block, recommended angioplasty and a certificate to that effect was issued on 8.10.2004. The applicant then sent the certificate for permission to the third respondent and as there was no response and he required immediate attention he got himself admitted at AI M. S. on 24.10.2004 and the applicant incurred a sum of Rs2,04,540 and then submitted a medical reimbursement claim marked as Annexure 10. Since there was no reply from the respondents registered legal notice was issued on 16.4.2005 to the third respondent who then issued the impugned order rejecting the claim on the ground that elective surgical procedure availed of by the applicant was not qualified for reimbursement. Hence the applicant is constrained to approach this tribunal and he has sought a direction to the respondents to disburse the claim with 12% interest and also to grant appropriate compensation to the applicant on account of the mental agony and suffering and hardship which he has suffered.

2 In the reply statement the respondents have contested the facts as submitted by the applicant and it is stated that as per the provisions of the Indian railway medical manual the applicant is not entitled to get reimbursement and he has unnecessarily dragged the respondents to the Tribunal. The applicant is a retired office superintendent who is presumed to have knowledge about the provisions of the medical manual. He had undergone treatment at the AI M. S. at his own risk and cost and having given an undertaking to that effect he cannot venture to file an original application before the Tribunal. The Southern Railway headquarters hospital at Perambur is a tertiary referral centre and well-equipped with experienced and reputed doctors. He had undergone a coronary angiogram on 26.8.2004, he was having four blocks and it was based on the opinion of the experts as a result of a collective decision taken at the conference held in the railway hospital every Saturday by cardiologists and cardiothoracic surgeons that he was advised coronary artery bypass surgery. Without getting permission from the respondents or the doctor who treated him he admitted himself in Amrutha hospital. When the CD was requested it was issued to him after getting an undertaking that he will not claim reimbursement as full facilities are available at the headquarters hospital. According to the provisions of the Indian railway medical manual, under section 633, the Railway employees are entitled to free medical attendance and treatment,

(a) In such Railway hospital, health unit or consulting room maintained by the authorised medical officer, at or near the place where the patient falls ill, as can, in the opinion of the authorised medical officer, provide the necessary and suitable facilities or

(b) If there is no such hospital, health unit or consulting room as referred to in clause (a) above, in such government hospital, health centre or dispensary at or near the place as can in the opinion of the authorised medical officer provide the necessary and suitable facilities or

© if there is no such hospital, health centre or dispensary as referred to in clause(a) and (b) above, any other hospital with which arrangements have been made for the treatment of the railway employees at as near the place as can, in the opinion of the authorised medical officer provide the necessary and suitable medical facilities.....”

3 Section 647 allows reimbursement if attendance was availed at the instance of the Medical Officer. Section 647 is extracted below.

A railway employee obtaining medical attendants and/or treatment for himself or a member of his family or dependent relative should under the provisions of paragraph 633 consult his authorised medical officer first and proceed in accordance with his advice. In case of his failure to do so, his claim for reimbursement will not be entertained except as provided hereafter. All claims for reimbursement should be scrutinised with a view to see that the authorised medical officer or another medical officer who is either of equivalent rank or immediately Junior in rank to his authorised medical officer and attached to the same hospital/health unit as the authorised medical officer was consulted in the first instance.

Note : "When the patient is referred to any government/recognised hospital by the authorised medical officer the referral covers treatment/investigations in that specific hospital only. If in the course of treatment in that hospital in some investigations are required to be done at a place other than that hospital such referral should also be routed through the authorised medical officer except those cases who are taking indoor treatment in that hospital. Only those cases particularly those taking treatment as OPD patients in the referral hospitals where it has been specifically certified by the authorised medical officer that reference was done with his approval will be considered for reimbursement"

4 In the case of the applicant the authorised Medical Officer had not referred the patient for treatment to any other hospital for want of any medical facility and he had not availed the medical facility at Amritha hospital after consulting the authorised medical officer and as per his advice. The applicant had sent a letter on 12.10.2004 as per Annexure8. A reply was sent on 20.10.004 stating that angioplasty may not achieve complete results in his case but if he is so particular and insistent he could come to the railway hospital and get the procedure done after getting a date fixed (AnnexureR3(i)

The reply was sent in a self-addressed envelope which the applicant himself had forwarded with his letter, he cannot now deny the receipt of the same. Since the applicant was not prepared for surgery and wanted to undergo angioplasty only he could not claim reimbursement since it is against the provisions of the Medical Manual. Knowing that all these facilities are available in railway hospital only, he has gone to Amrutha hospital which is 250 kilometres away from his residence. He could have approached the Medical Superintendent at Thiruvananthapuram where he resides who would have referred him to Chennai if he so desired. There are no malafides on the part of the respondents in not giving the eligible medical treatment. The applicant himself was not willing to avail of the same. The grounds raised are bereft of any merit and the OA may be dismissed with cost.

5 The applicant has submitted a rejoinder denying the averments of the respondents reiterating that the applicant is entitled and qualified for reimbursement like any other retired employee of the Indian Railways and that the procedure undergone at AIMS was denied by the railway hospital and as such he is entitled for reimbursement. When no permission was received from the CMO, in view of the seriousness of the disease he had got himself admitted at Amritha hospital. He has denied receipt of any such letter as in AnnexureR3(1). The applicant had rejected the advice of the railway hospital for open heart surgery due to his old-age and bad health.

6 We heard the learned counsel on both sides and perused the material on record. The provisions of the railway medical manual have been extracted. It is evident therefrom that the facilities for open heart surgery and angioplasty in cardiac ailments are available at the railway hospital and the applicant is entitled to free treatment in such hospitals. The treatment in any other recognised hospital can be done by referral method only from the authorised Medical Officer and at his advice and with his consent. It is admitted by the applicant himself that he had first consulted the railway hospital and the Medical Supdt had referred him to the referral hospital at Perambur, doctors there had advised that in view of his past history bypass surgery would be more beneficial. However the applicant by his own admission in Para 3 of the OA decided to obtain a second opinion. He was particular and insistent that he would get only angioplasty done

and hence had got himself admitted at AIMS to undergo the same. It is not correct as averred by the applicant that the railway hospital refused to perform angioplasty. It was made clear in their letter dated 20.10. 2004 to the applicant that if he was insistent he could come to the railway hospital and get the procedure done. The applicant denies knowledge of having received such a letter. This version of the applicant cannot be accepted as the letter was issued in the self-addressed envelope which the applicant had himself enclosed. From the records it is quite clear that the applicant got himself admitted at AIMS at his own risk. The letter at Annexure 5 written by him in addition to giving the undertaking that he will not claim any reimbursement also mentions that he is taking a copy of the CD from the railway hospital for consultation outside on his own risk. Having thus decided for himself that he would not avail the facilities at the railway hospital but would like to have the treatment of his choice done at the hospital of his own choice, he cannot now turn around and claim that the hospital's diagnosis was wrong and that they should reimburse him the full cost of the treatment in the private hospital. The applicant who was an Office Superintendent has admitted that he is well versed in the procedures of the medical manual and he should have been aware that that was not the procedure to be followed if he was to claim reimbursement at a later date. Having taken the risk and by passed the procedures and instructions on the subject he cannot now seek refuge in the Tribunal for getting full reimbursement of the charges incurred by him. I'm not convinced about the bonafides of the applicant and his charges of arbitrariness and discrimination levelled against the respondents. In the facts and circumstances, of the case, the action of the respondents in rejecting the claim of the applicant is well within the rules and cannot be faulted. The prayer of the applicant has no merit. OA is accordingly dismissed.

Dated...20th...December, 2005.


SATHI NAIR
VICE CHAIRMAN

Kmn