

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A. NO. 596/91

Tuesday, this the 5th day of April, 1994

SHRI N. DHARMADAN (J)
SHRI S.KASIPANDIAN(A)

K. Saseendranadhan,
Dy. Office Supdt.,
Central Excise Hqrs. Office,
(Internal Audit) I.S.Press Road,
Kochi - 18.

.. Applicant

By Advocate Shri M.G.K.Menon (Not present).

V/s

1. The Collector of Central Excise,
I.S.Press Road, Kochi-18.

2. The Chairman, Central Board of
Excise & Customs, New Delhi.

3. The Director General of
Health Services, Ministry of Family &
Welfare, New Delhi.

4. The Union of India, rep. by
Secretary, Min. of Finance,
New Delhi.

.. Respondents

By Advocate Shri K.Karthikeya Panicker, ACGSC.

ORDER

N. DHARMADAN (J)

Applicant is a physically handicapped Deputy Office Superintendent working under the first respondent in the office of Central Excise. Applicant is aggrieved by the denial of the claim for reimbursement of medical expenses.

2. Applicant was suffering from bone tuberculosis in July 1978. He sought permission of the Director of Health Services for undergoing treatment in the Christian Medical College Hospital at Vellore. As per Annexure-A1 the Director has granted permission. Applicant was treated at Vellore and the Doctor who treated him at Vellore Hospital

issued Annexure-A2 advising him to undergo treatment in his home town. Accordingly, he took treatment under Dr. K.P. Ram Kumar, Orthopaedic Surgeon in Jubilee Mission Hospital, Trichur. He submitted a bill amounting to Rs.1110.40 before the first respondent for getting reimbursement. The first respondent sanctioned only Rs.609.90 which, according to him, is within his financial powers and the balance amount of Rs.500.50 was denied to him. The applicant received the amount on 28.3.81 and submitted Annexure-A3 representation for getting the balance. That representation has not been disposed of so far. In 1983 the applicant suffered a severe reactivation and relapse of his disease and he underwent emergency surgical operation at Elite Mission Hospital, Trichur. He incurred a total expenses of Rs.3567.83 for his treatment as shown below:-

" (a) Medical expenses from	Rs. 27.85	
Dec. 83 to April 84	Rs.2116.01	Rs.2143.86
(b) Medical expenses from		
April 84 to Jan.85	Rs.1423.97
		<u>Rs.3567.83</u>
		<u>Rs.3567.83</u> "

Annexures-A4 and A5 are the applicant's claims for getting reimbursement. Applicant received Annexure-A6 reply from the Chief Accounts Officer informing him that the claim is still under consideration of the DGHS, New Delhi and the decision would be communicated as and when it is received from DGHS. Since he did not receive any further communication, Annexure-A7 reminder dated 6.8.88 was also sent. Latter, applicant received Annexure-A8 on 20.9.88 informing him that the Ministry has now indicated that the medical claim papers sent to the DGHS in October 1985 were not traceable/available with them. IP requested the applicant to send duplicate claim papers to take up the matter with DGHS. Thereafter applicant received Annexure-A9

dated 9.5.89 informing that his claims are still under consideration of the DGHS, New Delhi and the final decision will be informed to him later. When the applicant informed his inability to furnish duplicate bills since he has submitted the originals before the first respondent, the first respondent, after due verification recommended the case of the applicant strongly by sending Annexure-A10 letter. In that, after due verification of the details, he has stated as follows:-

"The total amount of 3 medical claim preferred by Shri K.Saseendranathan comes to Rs.3567.83."

He has also given a brief history of the case and the claims thereof as follows:-

"6.2 As advised by his niece's husband who is also a Doctor by profession, Shri Saseendranathan was under the treatment of Dr. K.P.Ramkumar, an orthopaedic surgeon working in a private hospital i.e. Jubilee Mission Hospital, Trichur from 11.11.78. He has undergone an emergent and successful operation by Dr. Ramkumar during the year '78 when reactivation of Bone T.B. started. So on subsequent attack of reactivation of Bone T.B. he rushed to Dr. K.P.Ramkumar on 8.12.83. It can be seen that the individual had no other option except approaching the same Doctor in view of the fact that the previous case history of his old bone T.B. was only known to Dr. Ramkumar. The Doctor directed him to Elite Mission Hospital at Trichur for conducting test on 14.12.93 and after diagnosing the disease, the individual underwent an emergent surgical intervention.

7. In view of the peculiar circumstances of the disease which actually necessitated the treatment in a private hospital and since the amount involved is very huge as far as a UDC is concerned, this case may please be taken up with DGHS, New Delhi and obtain favourable orders for reimbursement of the medical expenses already incurred."

Thereafter the applicant received the impugned order. It reads as follows:-

" I am directed to refer to your letter C.No.II/22/A-118/81-Accts.I dated 25th November, 1988 on the above subject and to say that on careful consideration of the case, it is not found possible to allow the reimbursement of medical charges to Shri K.Saseendranathan, UDC (Now D.O.S.) in your Collectorate."

. 4/-

The prayers in the application are as follows:-

- " (i) To issue an order setting aside the impugned Annexure-A11 order issued by the 2nd respondent.
- (ii) To direct the respondents to pay the applicant's medical claims amounting to Rs.3,567.83 in full.
- (iii) To direct the respondents to pay the applicant the balance amount of Rs.500.50 in respect of his medical claim mentioned in sub-para (iii) of para 4 above.
- (iv) To issue any other order or direction which this Hon'ble Tribunal may deem fit and proper in the circumstances of the case."

3. In the reply the respondents have admitted the two medical claims submitted by the applicant. Regarding the first claim, the applicant was sanctioned Rs.609.90 by the Collector of Central Excise, Cochin, relaxing the Central Services (Medical Attendance) Rules, 1944. They have also admitted that regarding the balance of Rs.500.50 the applicant has preferred an appeal before the Chairman, Central Board of Excise and Customs. But nothing is mentioned about the disposal of that appeal. Regarding the second claim covering the amount of Rs.3567.83 it is stated that the claim was sent to the Ministry of Finance for sympathetic consideration. But the Ministry informed the Collector that the claim has been forwarded to the DGHS (M.C. Section) but the DGHS has subsequently written to the applicant that the claim papers are not traceable/available with them. Therefore the applicant was requested to file duplicate claim papers to take up the matter with DGHS. Thereafter, the Ministry, by a subsequent letter dated 28.7.89 informed the applicant that on a careful consideration of the case, it was not found possible to reimburse the medical charges to him. Therefore, according to the respondents, the medical claim was considered and rejected in view of the fact that he obtained treatment in a Private Nursing Home on his own. If the claim papers are not traceable, according to the Ministry, it is unbelievable that the claim was considered by the authority before passing the impugned order.

4. Admittedly, applicant's first claim for medical reimbursement was not paid fully not on account of the fact that he is ineligible for the same, but on account of the limitation of the financial power of the first respondent. When he claimed Rs.1110.40, the first respondent sanctioned only Rs.609.90, which is only within the financial powers of the first respondent. Regarding the balance of Rs.500.50, the respondents have no case that the applicant is not eligible for the amount and hence they are not denying it. Even though the applicant filed an appeal, it has not been disposed of so far. Hence, according to us, the applicant is entitled to get back this amount. The financial power limitation of an authority cannot stand in the way of the legal claim of medical reimbursement and legal entitlement thereon.

5. Applicant has stated in the O.A. that in the year 1983 he suffered a severe reactivation and relapse of his disease for which he has already been treated in the Vellore Hospital in the year 1979. Because of the urgent necessity of surgical operation, he was admitted at the Elite Mission Hospital, Trichure and the surgery was done at the instance of Dr. K.P.Ramkumar under whom he was getting treatment pursuant to Annexure-A2, ever since his earlier treatment in the Vellore Hospital. This medical bill was submitted before the first respondent who made all the verifications and sent to the competent authority for disbursement of the amount with strong recommendations. Admittedly, this was forwarded to the Ministry of Finance. As per letter dated 15.4.88 the first respondent informed the applicant that his medical claim is under consideration of the DGHS, New Delhi but the DGHS has informed the applicant that the claim papers are not traceable/available with them and requested the applicant to file a duplicate

000000

..... 6/-

claim. Since the applicant was not possessed with the documents, it was not possible for him to prepare a duplicate claim. The copies were available with the first respondent and the first respondent could inform the details. Accordingly, the first respondent sent Annexure-A10 letter on 25.11.88 in which it is stated that he has made verification of the details and the total amount of three claims preferred by the applicant comes to Rs.3567.83. He has also strongly recommended for disbursement of the amount. When the first respondent is satisfied about the genuineness of the claims, the DGHS cannot deny the payment by raising the technical objection of non-availability of the claim papers. When the DGHS has taken the view that the claim papers are not traceable, he should have considered Annexure-A10 recommendations and passed appropriate orders granting the claim. Instead of the same, the impugned order was issued indicating that the matter was considered carefully and it was not possible to allow reimbursement. No reason is mentioned in the impugned order. But the position has improved in the reply mentioning that the claim was considered and rejected in view of the fact that the applicant is not eligible since he was treated in a private Nursing Home on his own. This is wrong. The statement in the reply cannot be accepted because it has been admitted by the first respondent that the applicant underwent emergency operation at the instance of the very surgeon, Dr. Ramkumar, in the Elite Mission Hospital, Trichur, which is a very famous hospital. It is a recognised hospital by authorised medical attendants and the denial of medical reimbursement claim in this/case cannot be sustained particularly when the first respondent has made all verifications and strongly recommended reimbursement of the entire amount. Rule 6 of Central Services (Medical Attendance) Rules, 1944 will apply. Applicant is eligible

for the reimbursement validly claimed by him as per the bills originally submitted and approved by the competent authority.

6. In this view of the matter, according to us, the applicant is entitled to the reliefs as claimed in the O.A. Accordingly, we direct the respondents to pay to the applicant the total claim of Rs.3567.83 plus Rs.500.50 with six per cent interest from the date when the amount is actually payable to the applicant as per his claim.

7. The application is allowed as above. There will be no order as to costs.

S. Kasipandian
5-4-94

(S.KASIPANDIAN)
MEMBER(A)

N. Dharmadan
5.4.94

(N.DHARMADAN)
MEMBER(J)

v/-