

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No. 605 of 1999

Tuesday, this the 18th day of April, 2000

CORAM

HON'BLE MR. A.M. SIVADAS, JUDICIAL MEMBER

1. C. Sasikumari,
Postal Assistant,
Head Post Office, Kollam.Applicant

By Advocate Mr. G. Sasidharan Chempazhanthiyil

Versus

1. Senior Superintendent of Post Offices,
Kollam.

2. Chief Postmaster General,
Kerala Circle, Thiruvananthapuram.

3. Director General, Postal Department,
New Delhi.

4. Union of India rep. by its Secretary,
Health and Family Welfare,
New Delhi.Respondents

By Advocate Mr. R. Madanan Pillai, ACGSC

The application having been heard on 18th April 2000, the Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR. A.M. SIVADAS, JUDICIAL MEMBER

The applicant seeks to quash A7, to declare that A7 is not in compliance of the directions in A5 order, to direct the 4th respondent to consider the claim of the applicant in relaxation of the normal reimbursement rules for reimbursement of the medical expenses for the treatment in the Institute of Cardio Vascular Diseases, Madras, and also to direct the 4th respondent to consider the claim for reimbursement of the medical expenses in full incurred by the applicant for treating her husband.

2. The applicant earlier approached this Bench of the Tribunal by filing OA No. 813/97 seeking a declaration that she is entitled for reimbursement of the full amount spent by her on her husband's treatment and for a direction that the respondents are liable to pay the amount to her.

3. During the hearing of the said OA, the learned counsel who appeared for the respondents therein submitted that that application can be disposed of with appropriate direction to respondents 3 and 4 to consider and dispose of a representation to be submitted by the applicant and the application may be disposed of with appropriate direction to the respondents 3 and 4 for consideration and disposal of the representation. Considering the submission made by the learned counsel for the respondents in the said OA, that OA was disposed of directing the applicant to submit a representation to the 3rd respondent and directing the respondents 3 and 4 to consider the representation with due sympathy and consider the reimbursement of the medical claim if necessary by relaxing the normal rules.

4. Thus, it is very evident that the direction of this Bench of the Tribunal in OA No. 813/97 was to consider the representation of the applicant by respondents 3 and 4 and if necessary by relaxing the normal rules.

5. A7 is the order issued in pursuance of the directions in OA No. 813/97. From a reading of the same, there is nothing to arrive at a conclusion that the representation of the applicant was considered by respondents 3 and 4 as directed in OA No. 813/97.

6. The applicant has specifically raised a ground that the 4th respondent has not considered her request in the representation for relaxation of the normal rules for medical reimbursement. Paragraph 13 of the reply statement deals with this ground. What is stated therein is that the 4th respondent has concurred with the decision taken by the 3rd respondent to the effect that nothing more was due to the applicant on account of reimbursement of medical expenditure incurred for treatment of her husband in the private hospital, that the power of relaxation has even been delegated to the Director General, Posts, and that the 4th respondent has also seen no ground for relaxing the rules in the case of the applicant.

7. It seems that the respondents are not aware of the difference between taking a decision and concurring with a decision. When respondents 3 and 4 were directed to take a decision on the representation of the applicant, it is different from the 3rd respondent taking a decision and the 4th respondent concurring with it. Respondents 3 and 4 were directed to consider the representation of the applicant on the submission made by the learned counsel for the respondents. Now the respondents say that the power of relaxation has been delegated to the Director General, Posts. It is not stated when that delegation was effected. If the delegation was there at the time of disposal of the OA No. 813/97, it is not known why the learned counsel appeared for the respondents submitted that the respondents 3 and 4 may be directed to consider and dispose of the representation of the applicant. It cannot be a case of taking different stands by the respondents.

8. Though the respondents say that the 4th respondent has also seen no ground for relaxing the rules in the case of the applicant, there is nothing to that effect seen in A7. If the 4th respondent has also applied his mind and has seen no ground for relaxation of the rules, it should find a place in A7. Further, if the case of the respondents that the power of relaxation has been delegated to the Director General, Posts, then there is no necessity for the 4th respondent to look into the question of relaxing the rules.

9. In the last paragraph of A7 it is stated that:

"The whole case has been re-examined sympathetically at this end and it has been observed that the CPMG has already taken a liberal view and considered the case of the official in relaxation of normal rules inspite of the fact that proper procedure had not been followed by the official...".

From the same it appears that the Chief Postmaster General has got the right and authority to relax the normal rules. As per the reply statement, the power for relaxation of the rules has been delegated only to the 3rd respondent, the Director General, Posts. If that is so, it is not known how the Chief Postmaster General could consider the case of the applicant in relaxation of the normal rules. It appears to be not a case of the 4th respondent having concurred with the decision taken by the 3rd respondent as stated in paragraph 13 of the reply statement, but the 3rd respondent having concurred with the view taken by the Chief Postmaster General with regard to the relaxation of the normal rules only. As seen from the respondents' pleadings, the Chief Postmaster General has no right or authority.

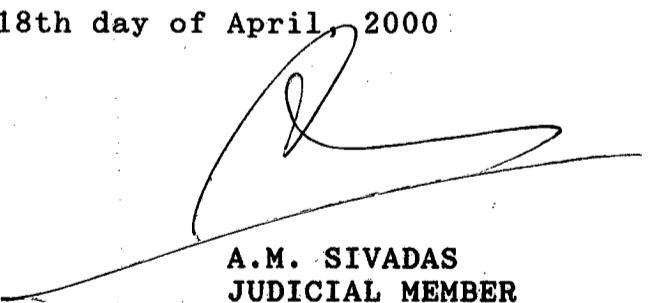
10. When there is a direction by this Tribunal, the respondents have no escape, but to comply with it. It cannot be a case of the respondents acting as they feel like. They should have necessarily acted in strict compliance of the directions. It appears to be a case that the 4th respondent has probably felt it infradig to consider the representation of the applicant in compliance with the directions of this Bench of the Tribunal. This attitude of the 4th respondent is only to be deplicated.

11. Since A7, the impugned order, is not in compliance with the directions of this Bench of the Tribunal contained in OA No. 813/97, A7 is only to be quashed.

12. Accordingly, A7 is quashed. Respondents 3 and 4 are directed to comply with the directions contained in OA No. 813/97 strictly and pass a considered order with due application of mind within a period of two months from the date of receipt of a copy of this order.

13. The original application is disposed of as above. No costs.

Tuesday, this the 18th day of April, 2000


A.M. SIVADAS
JUDICIAL MEMBER

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List of Annexures referred to in this Order:

1. A7 - True copy of the order No. 31-107/97-PAP dated nil issued by the 3rd respondent.
2. A5 - True copy of the order of the CAT, Ernakulam Bench dated 15-10-1997 in OA No. 813/97.