

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O. A. No.
T. A. No.

606

1990

DATE OF DECISION 5.8.91

K. Appu and V. Radhakrishnan Applicant (s)

Mr. P V Mohanan

Advocate for the Applicant (s)

Versus

Director General, ICAR, New Delhi Respondent (s)
and another

Mr. P.V. Madhavan Nambiar

Advocate for the Respondent (s)

CORAM:

The Hon'ble Mr. N. V. KRISHNAN, ADMINISTRATIVE MEMBER

The Hon'ble Mr. N. DHARMADAN, JUDICIAL MEMBER

1. Whether Reporters of local papers may be allowed to see the Judgement?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the Judgement?
4. To be circulated to all Benches of the Tribunal?

JUDGEMENT

MR. N. V. KRISHNAN, ADMINISTRATIVE MEMBER

The applicants are employees of the Central Plantation Crops Research Institute (CPCRI for short), an Institute controlled by the ICAR. The first applicant's wife was in^{an} advanced stage of pregnancy which could not be attended to in the Taluk Hospital and therefore she was admitted in the Uma Nursing Home at Kasaragod in the year 1989. Similarly, the second applicant's mother was admitted in the Kasragod Nursing Home for urinary infection and she was given emergency treatment. In respect of both these applicants, medical reimbursement claims^{were} preferred

and were allowed in the light of circular dated 23.2.77 referred to in para 4 of the application which authorises the Controlling Authority on the spot to use his discretion to permit treatment in a private hospital.

2. This, apparently was not correct for Annexure XXVIII O.M. dated 18.6.82 issued by the Ministry of Health, Deptt. of Welfare clarifies, inter alia, that the expression "private hospital" used in the earlier circular dated 23.2.77 had a limited application and excludes private clinics and Nursing Homes like the ones where applicants obtained treatment for their dependents.

3. Therefore, Audit took objection to the sanction of the medical claims and reimbursement to the applicants. The amount paid are Rs. 867/- and Rs. 380/- respectively in the case of the first and second applicants. Hence, recovery has been ordered in three monthly instalments (Annexure-VI and VII of which one has already been recovered. The recovery of the balance has been stayed by us.

4. The learned counsel for the applicant fairly conceded that the action thus taken is in conformity with the Annexure XXVII O.M. of 1982. He has also not challenged

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this O.M. in respect of the clarification into private
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hospitals ~~in~~ one/and private Nursing Homes on the other.

His contention is that, at present, action is under progress
to recognize these very private nursing homes for purpose
of medical attendance to the employees of the CPCRI. In
this connection he drew our attention to para 2.2 of
letter dated 5.4.88 of IARI (Annexure-I) which is as
follows:

"The personnel of the Institutes/Centres which are
located outside Delhi may get medical treatment
in Public and Private/Public Trustee Hospitals.
Such Hospitals will be identified by the Directors/
Project Directors/OSDs of the Institutes/Centres
and recognised with the approval of the Council.
The proposals in this regard should be sent to
the concerned administrative section of the
Council along with the financial implications."

In pursuance of this suitable action has been initiated

This is evident from the order No. F 15 (7)/PH/88/Estt.

dated 19.6.91 of the CPCRI whereunder the Director has
appointed a three member Committee to recommend the private

Institutions including the two Institutes in respect of
which the medical claims were preferred which should be
granted recognition for purposes of medical attendance.

He submits that if the two institutions where the members
of the family of the applicants took treatment are so
recognised, the respondents should be directed to waive
the recovery.

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5. In the circumstances, the applicants have sought the following reliefs:

- i) to call for the records leading to Annexure-IV V, VI and VII and set aside the same;
- ii. to direct the 1st respondent to consider the proposal sent by the second respondent and recognise the hospital/Nursing home such as Kasragod Nursing Home, Uma Nursing Home and Malik Dinar hospital under the Medical Attendance rules to claim Medical attendance facilities to the employees of CPCRI, Kasragod.
- iii) to declare that the applicants are entitled to get the benefit of Medical Attendance for the emergent treatment undertaken in Uma Nursing Home, Kasragod Nursing Home, Kasragod
- iv) to issue any other appropriate order or direction as this Hon'ble Tribunal deem fit and proper in the circumstances of the case."

6. We have heard the learned counsel for the respondents. He submits that the matter of recognition of the hospitals is still pending. He has therefore no objection if a direction is given to the authorities to expedite the recognition. However, he has no other comments to offer in respect of the second request made by the applicant.

7. We see the force of the argument of the learned ^{recognized} counsel for the applicant. Normally a hospital of some ^{standards} standard ~~will~~ be available for treatment of certain complex problems. Admittedly, the respondents felt that the ailment of the dependants of the applicants were such

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as to receive treatment in hospital other than the Taluk hospital and it is for this reason the treatment was had at the two Nursing Homes.

8. In the circumstances, it will be proper to direct the second respondent to forward, if not already done, the recommendations in respect of the hospitals for treatment of employees of the CPCRI at Kasaragod to the first respondent who, in turn, is directed to consider these recommendations and notify the recognised hospitals of Kasaragod within a period of four months from the date of receipt of this order.

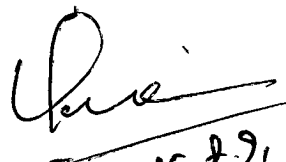
9. If the hospitals where the members of the families of the applicants had undergone treatment are so notified, we direct that the recovery that has been ordered in pursuance of audit objection shall be waived, notwithstanding such objection and the impugned letter, at Annexure-IV, V, VI, and VII and, the amount already recovered shall be refunded to the applicants.

10. Until the matter is considered as directed above, the interim order already passed shall continue.

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11. The application is disposed of as above. There will be no order as to costs.


(N. DHARMADAN)
JUDICIAL MEMBER
5.8.91.


(N. V. KRISHNAN)
ADMINISTRATIVE MEMBER
5.8.91

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