

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A. NO.101/2010

Dated this the 27th day of January, 2011

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HON'BLE MRS. K. NOORJEHAN, ADMINISTRATIVE MEMBER

T.K. Dinesan
S/o. T. Krishnan
(Retd. Station Master Gr.I/
Southern Railway, Badagara RS & PO)
Residing at "Chithra" Kokkanath Road
P.O., Meppayil, (Via) Badagara - 673 109. Applicant

(By Advocate Mr. T.C. Govindaswamy)

Vs

- 1 Union of India
Represented by the General Manager
Southern Railway, Headquarters Office
Park Town (P.O), Chennai - 3.
- 2 The Chief Medical Director
Southern Railway, IV Floor
Moore Market Complex
Park Town (P.O), Chennai - 3
- 3 The Chief Medical Superintendent
Divisional Office, Medical Branch
Southern Railway, Palghat Division
Palghat.
- 4 The Senior Divisional Personnel Officer
Southern Railway, Palghat Division
Palghat. Respondents

(By Advocate Mr. Thomas Mathew Nellimoottil)

The Application having been heard on 12.1.2011, the Tribunal delivered the following:

ORDER

HON'BLE MRS. K. NOORJEHAN, ADMINISTRATIVE MEMBER

The applicant, a voluntarily retired Station Master Gr. I working at Badagara Railway Station of Southern Railway, Palghat Division, is aggrieved by the rejection of his claim for reimbursement of his medical expenses incurred by him for an emergency treatment.

2 The applicant feeling uneasiness in his chest on 6.5.2008 reported sick and appeared before the Railway Divisional Medical Officer, Cannanore. After checkup he was directed to report on 7.5.2008. However, on the morning of 7.5.2008 on developing severe chest pain, he was taken to the C.M. hospital, Badagara which referred him to the Pariyaram Medical College Hospital for immediate treatment where he underwent Coronary Angiography and he was advised Angioplasty and support of two stents which was also undertaken as an emergency measure on 9.5.2008 itself. He was thereafter discharged on 14.5.2008. Immediately when he was taken to the Medical College, he had informed the DMO, Southern Railway, Cannanore. The applicant incurred a total expenditure of about Rs. 2,04816/- which according to him is reimbursable in terms of para 648 of the Indian Railway Medical Manual Vol. I. He submitted a representation (A-3) which was recommended by the Sr. Divisional Medical Officer, Cannanore. However, the same was returned by the 2nd respondent with the remark that the claim is not qualified as per extant rules laid down by the Railway Board. Aggrieved,

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the applicant has filed this O.A to quash Annexure A-1 and A-2 and to direct the respondents to reimburse the amount of Rs. 1,95,9000/- with interest at the rate of 12% per annum.

3 The respondents in the reply statement resisted the O.A. They stated that the applicant underwent angiography on 7.5.2008 which showed long stenosis of the left descending artery. The coronary angioplasty was done on 9.5.2008 i.e. 2 days after the coronary angiogram. It is not an emergency procedure. As such, the treatment does not appear to be of an emergency nature. They stated that, had he informed the Railway authorities after angiogram on 7.5.2008, he would have been referred to Railway Hospital Perambur where full fledged facilities are available for angioplasty. They stated that the competent authority has rejected his case after proper scrutiny of all aspects and after getting expert opinion from Cardiologist.

4 The applicant filed rejoinder stating that on 6.5.2008 he appeared before the Railway Divisional Medical Officer, Cannanore and the said Doctor took the applicant on sick list and directed him to undergo a lipid test, to take ECG for which he was directed to report again on 7.5.2008. However, in the morning on 7.5.2008 he fell seriously ill and as an emergency he was taken to the CM Hospital, Badagara which after examination referred him to Pariyaram Medical College Hospital. A copy of the certificate dated 14.5.2008 issued by the Cardiologist who treated him indicating the same as emergency PTCA, was also produced (A-7).

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5 The respondents filed additional reply statement reiterating their stand in the reply statement.

6 I have heard learned counsel for the parties and perused the documents.

7 The applicant has relied on the orders of this Tribunal in O.A. 216/2008, 564/2006 and 214/2009, and the judgment of the High Court in WP(C) No. 20054/2010 filed against the order of the Tribunal in O.A. 214/2009.

In O.A. 214/2009, the Tribunal ordered reimbursement of medical claim of a retired Railway employee who has undergone cardiac treatment in the Amrita Hospital instead of Railway hospital Perambur, Chennai, following the order of this Tribunal in O.A. 564/2006. The order of the Tribunal was upheld by the High Court of Kerala in WP(C) 20054/2010.

In O.A. 564/2006, a retired Mail Driver of Southern Railway was aggrieved by the rejection of his request for reimbursement of medical expenses incurred on account of an emergency treatment undertaken for his wife. In that O.A. the Tribunal held as follows:

"8 I have heard Ms. Rajitha for the applicant and Ms. P.K.Nandini for the respondents. By virtue as a member of the RELHS, 1997, no doubt it is the responsibility of the respondents to provide the applicant and his dependent family members with full medical facilities as admissible to serving employees. Para 648 of the Indian Railway Medical Manual has provided the manner in which "treatment in an emergency" is to be dealt with. "Emergency" situation in a patient's case is not defined in the said Manual. Whether there is emergency in seeking medical help or not largely depends on the assessment of the situation by the patient or his/her immediate family members or other persons who have been with the patient at the time of occurrence of the so called "emergent situation". In the case of an accident, it may be a stranger who might have got the patient admitted to the hospital. The decision as to whether the patient has to be rushed to the nearest hospital immediately or whether the patient can wait till the advice from a general physician is obtained largely depends upon the state of affairs of the patient as understood by the person attended the patient. Applicant's wife in this OA is a known case of heart patient. According to the applicant, she felt uneasiness during the journey and her condition was that she

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was not in a position to sit, lie down or walk. In such a situation, it was but natural for the applicant to come to the conclusion that it was a case of emergency. He could not take the risk of taking his wife to a general physician in a government hospital and get his advice in the matter. He has, therefore, discontinued the journey at Ernakulam and rushed his wife to the Amrita Hospital. The cardiologist in the hospital who treated his wife had also certified that "she was seen in OPD on 31/01/05 for unstable angina and coronary angiogram was done during same admission in emergency basis." (Annexure.A8). In such circumstances, the report of the Sr.DMO, Department of Cardiology Treatment and Research, Southern Railway Headquarters Hospital, Perambur, Chennai that "though the patient has double vessel disease and require angioplasty, it was not an emergency situation as claimed by her husband and very well could have been done at the Railway hospital/Perambur" cannot be appreciated. The O.A is allowed. The Annexure.A3 letter dated 27.3.2006 and Annexure.A4 letter dated 12.4.2006 are quashed and set aside. It is declared that the applicant is entitled to the reimbursement of the medical expenses incurred by him for treatment of his wife as claimed in Annexure.A5. The applicant may resubmit his claim for reimbursement of medical expenses and on receipt of the same, the respondents shall consider the same in accordance with the rules and the amount admissible shall be reimbursed to him at the earliest but not later than two months from the date of receipt of the claim from the applicant. There is no order as to costs."

Similarly, in O.A. 216/2008 *** medical claim of a retired Railway employee for treatment of his wife in a private hospital on a emergency was also allowed.

8 The case of the applicant is identical with the cases cited above. Therefore, I am of the view that this O.A can be allowed following the orders of the Tribunal. Accordingly, I allow the O.A, quash and set aside Annexure A1 and A2. I direct the respondents to settle the medical claim of the applicant for Rs. 1,95,000/- treating it an emergency and reimbursement made, as early as possible at any rate within two months from the date of receipt of this order.

Dated 27th January, 2011.


(K. NOORJEHAN)
ADMINISTRATIVE MEMBER

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