

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No. 113 of 1995

Friday, this the 7th day of April, 1995

CORAM:

HON'BLE MR JUSTICE CHETTUR SANKARAN NAIR, VICE CHAIRMAN

HON'BLE MR SP BISWAS, ADMINISTRATIVE MEMBER

1. RN Pillai,
S/o Sri CR Pillai,
Retired Station Director of
All India Radio,
Residing at Tusita, Chalapuram,
Calicut - 673 002.

.. Applicant

By Advocate Mr. KS Bahuleyan

Vs.

1. Union of India represented by
Secretary,
Ministry of Information and
Broadcasting, Sastri Bhavan,
New Delhi.
2. Director General,
All India Radio,
Parliament Street,
New Delhi-1.
3. Station Director,
All India Radio,
Kozhikode.

.. Respondents

By Advocate Mr. James Kurian, Additional Central Government
Standing Counsel

O R D E R

CHETTUR SANKARAN NAIR(J), VICE CHAIRMAN

Applicant who retired from service on 30-9-1992 as
Station Director, All India Radio, Calicut, seeks a direction
to command respondents to pay him Rs. 1540/- against a medical
bill presented by him, with 12% interest thereon and costs.

2. Applicant had to undergo "Flap Surgery of full mouth".
He approached the Director, Dental College, Kozhikode for
this purpose. The Director observed that:

"appointment for the surgery is likely to be
delayed to 3-4 months for want of teaching
staff in the Department."

(Annexure A-II)

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Upon this, applicant underwent surgery in a private institution and preferred the claim. As is not unusual, the claims remain unanswered. That led to the present application.

3. Applicant expressed difficulty to engage a Counsel and we requested Sri KS Bahuleyan to appear for him. Sri Bahuleyan appeared and argued the case with thoroughness. He contested the claim of the Department to the effect that medical reimbursement cannot be granted where a Government employee takes dental treatment in a private organisation. Sri Bahuleyan invited our attention to Rules 8 of Compilation of Medical Attendance Rules and the order of the Government of India, Ministry of Health & FW., OM No. S-14020/2/87-MS dated 23-1-89, to the effect:

"it has been decided that the existing facilities for reimbursement of expenditure incurred on dental treatment in Government hospitals by Central Government employees, and their families be extended to similar treatment availed of in private recognised hospitals on the advice of AMA if such treatment is not available in the nearest Government hospital."

(emphasis supplied)

4. This makes it clear that facilities for reimbursement would be available for dental treatment when it is not available in the nearest Government hospital. When the applicant needed the treatment, it was not available. The expression 'available', must be understood in time and space related to the need. If the applicant needs treatment and if it is not possible to get the treatment when he needs it, it will be a case of the treatment not being available. Applicant was entitled to be treated at a hospital where the treatment is available and to claim reimbursement in terms of the order of the Government of India, and in the light of Annexure A-II.

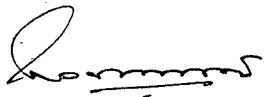
5. Therefore, the claim has to be upheld. We direct respondents to pay the amount of Rs.1540/- with 12% interest thereon with effect from a date, three months after the presentation of the bill (This has to be ascertained by the Department).

6. We regret to say that the Department has taken a very unreasonable attitude in denying a facility to applicant which was available to him in law. The orientation of Government Departments should not be to put spokes in the wheels to invent objections and to deny legitimate reliefs. In case of such unreasonable denial exemplary costs can be levied as pointed out by the Supreme Court in Central Cooperative Consumers Store Ltd. Vs. Labour Court, Himachal Pradesh & anr. (1993 (3) SCC 215).

7. We direct respondents to pay an amount equivalent to the claim, namely Rs.1540/- to applicant as costs. Payment will be made within eight weeks from today without fail. We record appreciation of the help rendered by Sri Bahuleyan to us.

8. The Original Application is allowed as aforesaid.

Dated the 7th April, 1995



SP BISWAS
ADMINISTRATIVE MEMBER



CHETTUR SANKARAN NAIR(J)
VICE CHAIRMAN

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List of Annexures

Annexure AII:- True copy of the Certificate from Director of Dental College issued by Director Dental College, Medical College P.O., Kozhikode, dt. 10.8.92.