

Central Administrative Tribunal  
Ernakulam Bench

**OA No.116/2013**

Friday, this the 2<sup>nd</sup> day of August, 2013

**CORAM**

**Hon'ble Mr.George Parackal, Member (J)**

Vasanthakumari, age 54 years

W/o S.Nagappan

Office Superintendent, Personnel Branch

Trivandrum Division, Southern Railway

Residing at Pournami, Lucky Garden

Karamana P.O., Thiruvananthapuram.

Applicant

(By Advocate: Mr. Martin G.Thottan)

Versus

1. Union of India represented by  
the General manager  
Southern Railway, Park Town P.O.  
Chennai-3.
2. The Divisional Railway Manager  
Southern Railway  
Trivandrum Division, Trivandrum.
3. The Chief Medical Superintendent  
Southern Railway, Trivandrum Division  
Trivandrum-14.

Respondents

By Advocate: Mr.Thomas Mathew Nellimoottil)

This application having been heard on 22.7.13, this Tribunal on 02.08.2013 delivered the following:

**ORDER**

The grievance of the applicant in this Original Application is that her medical reimbursement claim for Rs.76,140/- made in respect of the treatment of her husband under emergent medical condition has been rejected by the respondents without due application of mind.

2. The facts stated in the OA are that the applicant is presently working as Office Superintendent in the Divisional Office at Trivandrum under Southern Railway. Her husband, Sree Nagappan, is an invalid person and he

is under her care and protection. He is confined to bed and wheel chair for the last 15 years. In the year 1997, while undergoing treatment in the Railway Hospital, he was referred to Medical College Hospital, Trivandrum by the Railway Doctor for treatment of accumulation of calcium deposit in the body. He was operated upon for removal of calcification and thereafter he became paraplegic. Ever since the said operation, he has been under the treatment of Railway Hospital and PRS hospital, Killippalam, which is recognized by the Railways for the purpose of medical treatment and reimbursement of expenses. The said hospital is also very close to their residence. She was also getting reimbursement of expenses incurred by her in the past for his treatment in the said hospital.

3. While so, on 8.10.2011, the applicant's husband had a fall from the wheel-chair and he was admitted in PRS hospital where he underwent operation for subtrochantric fracture on right hip as an emergent measure. He remained under treatment there as an inpatient from 8.10.2011 to 22.10.2011. Since he developed post operative complications, he was again admitted in the same hospital and received treatment from 13.12.2011 to 19.12.2011. Thereafter, she preferred a claim and sought reimbursement of Rs. 76,140/-. However, the respondents rejected her claim vide the impugned letter dated 15.2.2012 (Annexure A-3a) stating that *"treatment could have been availed at Medical College Hospital/Trivandrum"*. Her representation against the said decision was also rejected by the second respondent vide letter dated 11.5.2012 (Annexure A3b) stating as under:-

*"No emergency in treatment and facility available in Medical College Hospital, Trivandrum. So reimbursement cannot be considered"*.

4. The applicant has approached this Tribunal against the aforesaid letters of rejection of her medical claim on the ground that they have been issued without due application of mind. The applicant has further stated that her husband was admitted in an emergent condition in nearby PRS hospital and, therefore, the contention of the respondents that he could have been admitted in Medical College Hospital, Trivandrum, is not tenable. She has also submitted that in a similar case in OA No.585/2012-Kesava Panicker

K.P. Vs, UOI represented by General Manager, Southern Railway and another, identical issue was considered. Applicant therein, on account of indigestion and stomach pain, was under treatment of one Dr. Paul Kallukkaran of Polyclinic, Trichur. On experiencing severe stomach ache he was admitted in Karthiyayani Nursing Home on 1.3.2012 and was diagnosed as suffering from piles. As his condition worsened, he was admitted for specialized treatment in Amrita Institute of Medical Sciences, Ernakulam as an emergency case on 2.3.12. He was found to be suffering from *polycythemia vera*. He underwent treatment there and was discharged on 10.3.12. The medical claim preferred was rejected by the second respondent-The Chief Medical Superintendent, Southern Railway, Pettah, Trivandrum on the ground that *"the disease and its treatment was not of an emergent nature"*. Considering the facts and circumstances of the above case, this Tribunal vide order dated 14.3.2013 allowed the OA relying upon para 648 of IRMM. The relevant part of the said order is as under:-

*"5 Heard learned counsel for the parties and perused the records produced before me.*

*6 The case of the applicant is that he was admitted in Karthiyayani Nursing Home, Trichur on experiencing stomach pain. On diagnosis he was informed that he was suffering from Piles. During the course of treatment his condition deteriorated and he was immediately referred for specialised treatment in Amrita Institute of Medical Science, Ernakulam. He was admitted there as an emergency case on 2.3.12 where the disease diagnosed as Polycythemia Vera. He underwent the treatment there and was discharged on 10.3.12. In such circumstances, the patient was not in a stable condition to be taken to the Railway hospital at Trivandrum. The contention of the respondents that at any stage of undergoing treatment he did not give any intimation to the authorized Medical Officer was controverted by the applicant by producing Annx.A5 letter written by the Station Master, Ollur, addressed to the Sr.DMO, Trichur. Therefore, it cannot be said that the respondents were not informed about the admission and treatment of the applicant at Amrita Institute of Medical Sciences & Research Centre, Kochi.*

*7 The emergency clause specified in Para 648 of IRMM 2000 reads as follows:-*

*"Emergency shall mean any condition or symptom resulting from any cause arising suddenly and if not treated at the early convenience be detrimental to the health of the patient or will jeopardize the life of the patient. Some examples are Road*

accidents, other types of accidents, acute heart attack, etc. under the such conceptions when the Railway beneficiary feels that there is no scope of reporting to his/her authorized Railway Medical Officer and avails treatment in the nearest suitable private hospital, the reimbursement claims are to be processed for sanction after the condition of the emergency is confirmed by the authorized railway Medical Officer ex post facto"

*It is averred that the applicant felt sudden pain in his stomach on 1.3.2012 and he was admitted in Karthiyanani Nursing Home, Trichur where he was diagnosed as suffering from piles. On the very next day i.e 2.3.12 his condition became so bad that he was advised for specialized treatment and he was taken to Amrita Institute of Medical Sciences & Research Centre, Kochi as an emergency case. The Doctor who attended the applicant in Amrita Hospital, issued a certificate that the patient was admitted on emergency basis. Therefore, it cannot be argued by the respondents that his was not an emergency case and does not qualify for reimbursement as per extant rules.*

*8 In view of the foregoing, I direct the first respondent to consider the claim submitted by the applicant under his discretionary power and reimburse the eligible amount restricted to CGHS (Central Govt. Health Scheme) Rules, treating it as an emergency case.*

*9 The O.A is disposed of with the above direction. No costs."*

5. Respondents have filed a brief reply statement reiterating the position as stated in the impugned letters dated 15.2.12 and 11.5.12

5. Heard the learned counsel for the parties and perused the documents.

6. In my considered view, the claim of the applicant has been rejected by the respondents in a casual manner without due application of mind. The respondents have not considered the fact that the applicant's husband was admitted in PRS Hospital in an emergent condition and the said hospital is a recognized hospital for the purpose of treatment of railway employees and their dependents. When a person suffers a serious and emergent medical condition, the only option available for the relatives is to rush him/her to the nearest hospital where specialized treatment is available. When the claim was preferred by the applicant, the respondents should have considered the same with due application of mind instead of rejecting it with a bald statement that "treatment could have been availed at Medical College Hospital, Trivandrum". I also see that the case of the applicant is covered by an earlier order of this Tribunal in OA No.585/12 (supra).

7. In the above facts and circumstances, I find that the rejection of the applicant's claim by the respondents vide Annexure A-3(a) letter dated 15.2.2012 and the Annexure A-3(b) letter dated 11.5.2012 was without due application of mind and, therefore, it was done in an arbitrary and illegal manner. Consequently, these two impugned letters are quashed and set aside. Resultantly OA is allowed. The respondents are directed to reconsider the claim of the applicant without raising the afore-mentioned objections and reimburse the amount as admissible under the rules within a period of one month from the date of communication of this order. No costs.

  
(GEORGE PARACKEN)  
Member (J)