

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A. NO. 128 OF 2008

THURSDAY, this the 4th day of December, 2008.

CORAM:

HON'BLE Dr.K.B.S.RAJAN, JUDICIAL MEMBER

V.Thangaraj
Cindal of Lascar
Commander of Yard
Naval Ship Repair Yard
Naval Base, Southern Naval Command
Kochi
Residing at Alfa Bhavan
Mancheril Lane
Mathur, Eroor P.O

... **Applicant**

(By Advocate Mrs. Sheeba Joseph)

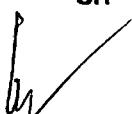
versus

1. Union of India represented by the Secretary to
Government of India
Ministry of Defence,
New Delhi
2. The Accounts Officer (N)
Office of the Joint Controller of Defence Accounts
Area Accounts Office CDA (Navy)
Kochi
3. Flag Officer, Commanding-in-Chief
Southern Naval Command
Naval Base,
Kochi
4. Commandore Superintendent
Naval Ship Repair Yard,
Kochi
5. Joint Controller of Defence Accounts
Area Accounts Office CDA (Navy)
Kochi

... **Respondents**

(By Advocate Mr.TPM Ibrahim Khan, SCGSC)

The application having been heard on 26.11.2008, the Tribunal
on 4-12-08 delivered the following:



ORDER

HON'BLE Dr.K.B.S.RAJAN, JUDICIAL MEMBER

The applicant, presently working as Cindal of Lascar at Naval Ship Repair Yard, was admitted at the Cochin Hospital on 16th April 2006, which is one of the recognized hospitals at Cochin for the purpose of treatment to Central Government servants. Medical reimbursements of such government servants are governed by the CCS (Medical Attendance) Rules. Towards the treatment of the applicant, an advance of Rs 10,000/- was granted and the applicant was discharged from the Cochin Hospital on 21st April 2006. The Hospital authorities had returned to the respondents direct, an amount of Rs 1,808/- as unspent amount from out of the advance paid to them. The applicant preferred a final Bill vide Annexure A-1. The bill was for Rs 8,232/- and since Rs 8,192/- had been paid as advance, the applicant's net claim was Rs 40/-.

2. Respondents have restricted his entitlement to 4,908/- as per the prescribed rates for the treatment Scheduled by the State Government and sought to recover the balance of Rs 3,284/- from the applicant vide Annexure A-2 order dated 31st January, 2008. The applicant has challenged the aforesaid recovery.

3. According to the respondents, who have filed their reply, the medical reimbursement claim in respect of treatment obtained from the recognized private hospital has to be regulated as per the approved schedule of rates by the 5th respondent and accordingly, a sum of Rs 4,908/- was admitted and the balance of Rs 3,284/- has been disallowed by the audit authorities.

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4. Counsel for the applicant submitted that when the amount of advance was paid to the Cochin Hospital and when the bill is for Rs 8,232/- there is no justification in truncating the amount to a bare minimum of Rs.4,908/- . He has relied upon the provisions of Rule 6(1) of the M.A. Rules, which lays down that a Government servant shall be entitled to free of charge treatment in such hospital at or near the place where he falls ill .
5. Counsel for the respondents submitted that the applicant has been paid the amount of reimbursement as provided for in the Rules.
6. Arguments were heard and documents perused. The rates relied upon by the respondents were fixed in 1994, as could be seen from Annexure R-1 and R-2. It is not exactly known whether the above mentioned rates underwent changes during the subsequent period prior to April, 2006 when the applicant underwent the treatment and if so, it should be such revised rates that is applicable.
7. The Apex Court has in the case of K.P. Singh v. Union of India, (2001) 10 SCC 167, opined as under:-

" 6. The last grievance, and it is of some note, is that a beneficiary of the Scheme will receive reimbursement only at the rate approved by the CGHS, regardless of the fact that in his particular town or city there are only private hospitals and no government hospital; there is, therefore, no option for him but to enter a private hospital for such treatment. It is also submitted that the approved rates are not updated by the CGHS from time to time so that what the beneficiary receives by way of reimbursement can be substantially less than the cost that has actually been incurred upon his hospitalisation. While there is, we think, merit in the submission, it is not for us to dictate what should be done. We direct that the Union of India shall immediately consider this aspect and give appropriate

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directions thereon. It would clearly be appropriate for it to update its approved rates on an annual or, at least, biennial basis. (Emphasis supplied)

8. Obviously, no attempt seems to have been taken up by the respondents to ascertain as to whether there is any such revision of schedule of rates.
9. This application is, therefore, disposed of, with a direction to the respondents to first ascertain from the State Government the schedule of rates prevalent in April, 2006 and work out the entitlement of the applicant according to the same. If there is no change to the rates, the applicant may be informed accordingly and recovery effected as proposed. Till then, there shall be no recovery on the basis of the impugned Annexure A-2 order.
10. No cost.

Dated, the 4th December, 2008.



Dr.K.B.S.RAJAN
JUDICIAL MEMBER

VS