

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A. NO.174/2003

TUESDAY THIS THE 21st DAY OF MARCH 2006

C O R A M

**HON'BLE MRS. SATHI NAIR, VICE CHAIRMAN
HON'BLE MR. GEORGE PARACKEN, JUDICIAL MEMBER**

- 1 Central Institute of Fisheries Technology
Employees Federation represented by its Secretary
PS Nobi, Central Institute of Fisheries Technology
Matsyapuri, Cochin.
- 2 P.S. Nobi S/o Sukumaran
Net making Supervisor, CIFT, Matsyapuri PO
Cochin residing at Plampalamari House,
Nochima, NAD, Alwaye-683563
- 3 N. Krishnan S/o late Narayanan
Junior Laboratory Assistant, CIFT, Matsyapuri
residing at Mattasseri Kudi House,
Airapuram PO>

Applicants

By Advocate Mr.P.V. Mohanan

Vs.

- 1 Union of India represented by Secretary
Ministry of Health and Family Welfare
Nirman Bhavan, New Delhi-110 001
- 2 Director General,
Indian Council of Agricultural Research
Krishi Bhavan,
New Delhi-110 001
- 3 The Director
Central Institute of Fisheries Technology
Matsyapuri PO, Wellington Islands
Cochin-682029

Respondents

By Advocate Mr. P. Jacob Varghese for R 2 & 3

ORDERHON'BLE MRS. SATHI NAIR, VICE CHAIRMAN

The first applicant is the Secretary, CIFT Employees Federation, the second applicant is presently working as a Net making Supervisor in CIFT and the third applicant is working as a Junior Laboratory Assistant in the CIFT. They are aggrieved by the action of the respondents in denying them reimbursement of the full amount of expenses incurred by the second and third applicants for medical treatment of their family members from the authorised hospital.

2 According to the applicants, the families of the second and the third applicants have undergone treatment at the Indira Gandhi Co-operative Medical Hospital, Ernakulam and claimed Rs. 10218/- and Rs.13475.67 towards treatment. They had submitted reimbursement claims but the respondents restricted the claim to Rs. 5795/- and Rs. 7112/- respectively and ordered recovery of the balance amount from the advances drawn by them. Aggrieved by the scaling down of their claims and recovery proceedings the applicants have preferred this Application. According to them the employees of the ICAR are governed by the Rules and Regulations of the government of India in regard to medical treatment and reimbursement of expenses incurred by them and those who are working out side the CGHS area are entitled to medical treatment as per the provision of the CS (Medical Attendance) Rules. Under the Rules he ICAR have recognised certain hospitals in Cochin for undertaking medical treatment for CIFT employees and their family members. Some other

hospitals duly recognised by the Government of India under CCS(MA) Rules are also approved by the ICAR and the Indira Gandhi Cooperative Hospital is one of the private hospitals recognised by the ICAR. Apart from the above hospital there are other seven hospitals in the city recognised by the ICAR. The bills obtained from the recognised hospitals are to be allowed at the rates approved by the State Government. The schedule of rates of the recognized private hospitals are fixed by the Government of India, Ministry of Health and Family Welfare on the basis of agreements between the Government and the respective hospitals. The schedule of rates of Indira Gandhi Hospital was approved by the Ministry of Health in 1989 and the same rates have been applied even now even though the rates charged for medical treatment have been revised on three occasions, no revision has taken place in respect of the Indira Gandhi Hospital. The employees of CMFRI Cochin, one of the Institute of ICAR, are getting medical expenses in full at the enhanced rates fixed by the Hospitals at the same time these are not granted to the employees of CIFT. The Rules provide that where a Government servant is entitled to free of charge to receive medical attendance, any amounts paid by him on account of such medical attendance shall on production of a certificate in writing by the authorised medical attendant in this behalf be reimbursed to him. Hence, the rejection of the claims of the applicants are in violation of the provisions of the CCS(MA) Rules. They have sought the following reliefs:

(i) To call for the records leading to Annexure A2, A4, A4(a) and Aa5 and set aside the same.

(ii) To direct the respondents to reimburse the full amount claimed by the applicants two and three being expenses incurred for medical treatment from the authorised hospitals.

(iii) To direct the respondent to refund the amount already recovered from salary of the applicant 2.

(iv) To declare that applicant 2 and 3 and the staff of CIFT and their wards who undertake medical treatment from the recognised hospitals are entitled to get the amount reimbursed in full depending on the amount incurred as medical expenses by them.

(v) To direct the respondents to extend the medical revised approved rate adopted by the Lakshmi Hospital to the employees of the CIFT who undertake medical treatment in other recognised hospital for reimbursement and

(vi) To issue any other appropriate order, direction as the Hon'ble Tribunal deem fit in the circumstances of the case..

3 In the reply statement, the respondents have admitted that twelve private hospitals including the Indira Gandhi Cooperative Hospital are recognised for treatment of staff of the CIFT subject to Government guidelines. Medical claims of employees for treatment in the above hospitals are admitted restricted to the rate prevailing in the Government hospitals and in accordance with the CS(MA) Rules, 1944, except in the case of Indira Gandhi Cooperative, Lakshmi and Gautham Hospitals which are approved by the Government of India for treatment of Central Government employees, a schedule of charges have been approved by the Government of India as at Annexure R-1. The same rates are applicable to Lakshmi and Gautham hospitals (R-2(1) R-2(2). The schedule of approved charges for the Lakshmi hospital as revised has been produced at Annexure R-3(2) dated on 14.4.2000. However, the schedule of approved charges of Indira Gandhi Hospital approved in 1989 has not been revised despite revision of rates by the hospital several times and the matter is under correspondence with the Ministry of Health and Family Welfare. The matter has also been taken up with the ICAR Headquarters for expediting a decision for reimbursement of the medical claims and the ICAR authorities have informed that the matter regarding approval of revised rates for treatment charges is under



correspondence with the Ministry of Health and Family welfare. Since no final reply had been received, the claims of the second and third applicants were regulated as per the rate of 1989 agreement and as and when they are revised the same can be extended to those employees of the Institute. They have also filed an additional reply statement stating that the ICAR has since issued certain clarifications informing that the claims of private hospitals approved by ICAR may be regulated as per the ceilings fixed under the CS(MA) Rules.

4 We have heard the learned counsel on both sides and perused the documents. The learned counsel for the applicant relied on the judgment of the CAT, Chandigarh Bench of the Tribunal reported in R.P.Mehta Vs. Union of India and Others (SLJ 2002(3)(CAT)198) wherein it was held that Rule 8 of CCS (MA) Rules order No. 15 (2)(ii) and (iv) as modified by the OM dated 22.4.98 so far as these restrict the reimbursement of expenditure incurred on medical treatment/medical attendance are declared to be in violative of the provisions of Rules 3 and 6 ibid to the extent these try to restrict the entitlement of a Government employee to full reimbursement of expenses incurred by an employee on such medial treatment/medical attendance and that no administrative orders can be issued contrary to the statutory rules. The learned counsel for respondents maintained that till such time the approved rates of 1989 for the Indira Gandhi hospital are revised, they have to follow the existing rate for reimbursement of claims.

5 It is seen from the pleadings that the entire issue has arisen on account of the differences in the rate of charges approved for the private hospitals recognised by ICAR as a result of the revision of the charges in

Lakshmi Hospital in the year 2000, whereas in the other hospital, the old rates are continuing from 1989. The respondents contend that the revision of charges could be undertaken only in accordance with the agreements entered into by each hospital with the Government of India. The Lakshmi Hospital has entered into such an agreement and have mutually agreed to the Revised schedule of charges. Therefore, Annexure R-3 dated 14.7.2000 approving revised charges for that hospital has been issued. While so, the Indira Gandhi Hospital has not come forward to sign the Memorandum of Understanding with the Government as a consequence, the rates of 1989 are still continuing in the Hospital. While the respondents may be correct in observing that the technicalities of procedures are holding up the issue, the issue is also to be looked at from the point of view of the employees who are constrained to get treatment from the hospital which is nearer to their place of residence and they cannot in times of need always afford to approach those hospitals for which higher rates have been approved. The sole purpose of approving 12 private hospitals for the entire area of Cochin is to provide greater access for the employees to get treatment at the hospitals nearer to them and this purpose will be defeated if the rates and charges in these hospitals are not by and large uniform. We find from the pleadings before us that the question of revision of the charges of the Indira Gandhi Hospital has been pending consideration since 2002. The slackness on the part of the hospital to pursue the matter is causing hardship to the employees and the employees cannot at the same time agitate for sanctioning of higher rates to a particular hospital. Thus a deadlock has been created in which the employees are only the sufferers.

6 Apart from the above the question of full reimbursement of medical expenses incurred by Central Government employees in recognised private hospitals has been settled by various legal pronouncements and it has been categorically held that Rule 3, 6 and 8 of the CCS(MA) Rules are statutory in nature and cast responsibility on the Government to reimburse the full amounts incurred on such treatment in hospitals approved by them and that any administrative instructions or guidelines restricting the payment cannot stand in the eyes of law. The judgment relied upon by the applicant of the Chandigarh Bench of the CAT mentioned supra has upheld the same ratio. In the instant case the fact that the Indira Gandhi Hospital is one of the recognised hospitals under the CCS(MA) Rules is undisputed. Rules 3 and 6 of the CCS(MA) Rules read as follows:

"3(1) A Government servant shall be entitled, free of charge, to Medical attendance by the authorised Medical Attendant.

(2) Where a Government servant is entitled under sub rule (1) free of charge, to receive Medical Attendance, any amounts paid by him on account of such Medical Attendance shall, on production of a certificate in writing by the authorised medical attendant in this behalf be reimbursed to him by the Central Government.

Provided that the controlling officer shall reject any claim if he is not satisfied with the genuineness on facts and circumstances of each case, after giving an opportunity to the claimant of being heard in the matter. While doing so, the controlling officer shall communicate to the claimant the reasons, in brief, for rejecting the claim and the claimant may submit an appeal to the Central Government within a period of 45 days of the date of the receipt of the order rejecting the claim.

6.1 A Government servant shall be entitled free of charge, to treatment:-

(a) in such Government Hospital at or near the place where he falls ill as can in the opinion of the authorised medical attendant provide the necessary and the suitable treatment; or

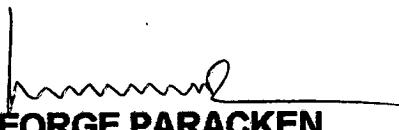
(b) if there is no such hospital as is referred to sub clause (a) in such hospital other than a government hospital at or near the place as can in the opinion of the authorised medical attendant,

provide the necessary and suitable treatment.

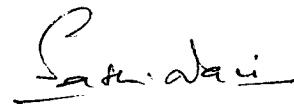
(2) Where Government servant is entitled under sub rule (1) free of charge, to treatment in hospital, any amount paid by him on account of such treatment shall, on production of a certificate in writing by the authorised medical attendant in his behalf, be reimbursed to him by the Central Government."

7 According to the ratio of the judgment referred to above and in terms of the above Rules, the government servant is entitled to treatment free of charge in such Government hospitals and other hospitals near the place of his residence as in the opinion of the authorised Medical Attendant provides the necessary treatment and is liable to be reimbursed any amount paid by him on account of such treatment. Considering the above legal position, the prayer of the applicants will have to be allowed. The respondents are directed to reimburse the full amounts incurred for treatment in the recognised hospital by the applicants and to refund the amounts if any already recovered. This direction shall be complied within two months from the date of receipt of a copy of this order. We also direct the first respondent to take expeditious action on the proposal of revision of approved rates of Indira Gandhi Hospital on the lines of the revision undertaken for the Lakshmi Hospital. The OA is allowed as above. No costs.

Dated 21 3 2006


GEORGE PARACKEN
 JUDICIAL MEMBER

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SATHI NAIR
 VICE CHAIRMAN