

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A.NO. 20/08

Friday this the 5th day of December, 2008

C O R A M

**HON'BLE DR. K.B.S. RAJAN, JUDICIAL MEMBER
HON'BLE MRS K. NOORJEHAN, ADMINISTRATIVE MEMBER**

- 1 Southern Railway Pensioners' Association
(registered), Mangalore represented by
its Secretary, Anagur Bhaskar,
Registered office, Gopalan Vaidyar's Compound
Tilery Road, Bolar, Mangalore
- 2 K. Venkatraya S/o late Santha Nayak
Retired Station Master, Southern Railway
permanently residing at Srimathi Sadana Near Uduvangav
Temple, Kalnad, Kasaragod District.
- 3 M. Abdul Khader S/o Muhammed
Retired Legal Assistant
Southern Railway, Permanently residing at
Anangur, Kasaragod
Kasaragod district.

Applicants

By advocate Mr. K. Shri Hari Rao

Vs.

- 1 The Union of India represented by
Secretary, Ministry of Railway
Rail Bhavan, New Delhi.
- 2 The Railway Board, represented by its
Secretary, Rail Bhavan,
New Delhi.
- 3 The General Manager
Southern Railway,
Chennai.

Respondents

By Advocate Mr. K.M. Anthru

The application having been heard on 26.11.2008 the Tribunal delivered the following:

O R D E R

HON'BLE MRS. K. NOORJEHAN, ADMINISTRATIVE MEMBER

The applicants are aggrieved by the action of the respondents
in not recognising private hospitals at Udupi, Mangalore and



Kasaragod under provisions of Retired Employees Liberalised Health Scheme formulated by the respondents.

2 The first applicant is a registered Association of retired Railway employees and family pensioners affiliated to the National Federation of Railway Pensioners, Palghat. The members of the Association are permanently residing in Kasaragod and Kannur Districts and their nearest centre for medical and other facilities is at Mangalore Railway Health Unit. A few of the members are temporarily residing at D.K. and Udupi Districts of Karnataka. The second Respondent on 23.10.97 issued Retired Employees Liberalised Health Scheme (Annexure A2) which was later revised on 17.5.1999 (Annexure A-3). As per the new rules, a railway beneficiary must report to Railway Medical Officer for his medical treatment. The Authorised Medical Officer will make necessary arrangements for medical treatment through Railway Hospital/Govt. Hospital/Private Recognised Hospital. In exceptional circumstances, the Zonal Railways can obtain special permission from Railway Board for treatment in any Private Hospital on case to case basis. In emergency cases a railway beneficiary can avail treatment in the nearest and suitable private hospital but the reimbursement claims are to be confirmed by the Authorised Railway Medical Officers ex post facto.

3 The first applicant submitted a memorandum on 29.12.2005 to the Railway Minister requesting to recognise a few private hospitals in the districts of Udupi, Mangalore and Kasaragod as per the new scheme, as the Railway hospital is at 400 K.M away at Palghat (A-4). It was followed by Annexure A-5 and A-6 letters. The first applicant received a reply stating that the matter is under examination. Though

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the 2nd respondent has notified 115 private hospitals under the A-2 and A-3 schemes, no such hospitals are recognised to the benefit of the applicants. Aggrieved by the action of the respondents the applicants have approached the Tribunal.

4 The grounds urged by the applicants are that though they became members of the scheme after contributing money, it is practically difficult for them to go to the nearest Railway Hospital at Palghat, which is 400 k.m away. Even though the 2nd respondent has opened 121 new Railway hospitals and 586 Railway Health Units and recognised 115 private hospitals, the applicants are not able to enjoy the benefit.

5 At the outset the respondents opposed the O.A. on the ground that it does not fall under **service matter** and there is no violation of any existing conditions of service. They submitted that Annexure A-2 and A-3 schemes were introduced as a welfare measure and they do not confer any indefeasible right to the applicants. There is no compulsion to join the scheme. They submitted that opening of more Railway Hospitals and Health Units and giving recognition to more Private hospitals is a matter involving huge expenditure and it is a policy matter.

6 We have heard Shri K. Sree Hari Rao, the counsel for the applicant and Shri K.M. Anthru, learned counsel for the respondents and have gone through the judgments relied on by the parties.

7 The learned counsel of the applicants invited our attention to the decision of Hon'ble Supreme Court in State of Punjab and Others Vs. Ram Lubhaya Bagga etc. (AIR 1998 SC 1703) and the decision of the Division Bench of Circuit Bench, Gwalier of the Tribunal in Laxmi

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Chand Vs. Comptroller and Auditor General of India &Ors (O.A. 112/2004 decided on 4.11.2004.

In State of Punjab and Others Vs. Ram Lubhaya Bagga, the Hon'ble Supreme Court considered the claim of a Punjab State employee for reimbursement of expenses incurred in a private hospital. The case of the applicants in this O.A. who are retired railway employees cannot be compared to the applicant in the cited case which is a **solitary case of an employee of the State Government**, decided on the merits of the case.

In O.A. 112/2004 the applicant, a retired Accounts Officer who had suffered heart attack was referred to Apollo Hospital for urgent treatment. On discharge the applicant claimed reimbursement of the expenditure incurred which was rejected on the ground that being a retired employee he is not covered under CS(MA) Rules, therefore, he was not entitled to claim medical reimbursement. The Tribunal directed the respondents to entertain the medical reimbursement claim of the applicant and reimburse the admissible amount spent by him for the treatment in the Apollo Hospital. We find that in the case cited above the question was whether treatment at a private hospital on an "emergency" could be reimbursed or not. We do not find that the cases relied on by the applicants are identical to the case of the applicants.

8 The applicants have approached this Tribunal for recognition of a few private hospitals Udupi, Mangalore and Kasaragod districts under provisions of the Retired Employees Liberalised Health Scheme formulated by the respondents. The Railway Board has introduced A1 and A-3 schemes for the benefit of retired railway employees. The

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applicants before us plead that the insistence of reporting to the nearest Railway Medical Officer practically deny them the benefit under the scheme. Having heard the counsel appearing on both sides and having gone through the pleadings, we are of the opinion that it is for the Railway Board to decide on the criteria of opening of Railway Hospitals, Health Units or whether to give recognition to a few private hospitals in a particular area where large number of retired railway servants who have opted for the scheme are living. We find that the applicants have submitted a representation to the Deputy Director, Railway Board, New Delhi on 26.4.2007 which has not been disposed of so far. The interest of justice will be met if we dispose of the Original Application with a direction to the respondents to consider the grievance of the applicants and pass a reasonable order within three months from the date of receipt of this order. We order accordingly.

The O.A. is disposed of as above. No costs.

Dated 5th December, 2008


K. NOORJEHAN
ADMINISTRATIVE MEMBER

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DR. K.B.S. RAJAN
JUDICIAL MEMBER