

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A.No.216/08

Tuesday this the 24th day of February 2009.

C O R A M :

HON'BLE Mr.GEORGE PARACKEN, JUDICIAL MEMBER

K.Ramakrishnan Nair,
S/o.Krishna Pillai,
Retired Mail Driver,
Southern Railway, Trivandrum Division.
Residing at Rohini, Chemmath Road,
Elamkulam, Kaloor P.O., Kochi – 17.

...Applicant

(By Advocate Mr.T.C.Govindaswamy)

Versus

1. Union of India represented by the General Manager,
Southern Railway, Headquarters Office,
Park Town P.O., Chennai – 3.
2. The Chief Medical Director,
Southern Railway, Headquarters Office,
Park Town P.O., Chennai – 3.
3. The Director General (RHS),
Railway Board, Rail Bhavan,
New Delhi.
4. The Chief Medical Superintendent,
Southern Railway, Medical Branch,
Trivandrum Division, Trivandrum – 24.

...Respondents

(By Advocate Mr.Thomas Mathew Nellimootttil)

This application having been heard on 24th February 2009 the
Tribunal on the same day delivered the following :-

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ORDER**HON'BLE Mr.GEORGE PARACKEN, JUDICIAL MEMBER**

The applicant is a retired Mail Driver of Southern Railway, Trivandrum Division. He superannuated from service on 31.5.2004. He is a member of the Retired Employees Liberalised Health Scheme 1997 with Registration No.276/04/ERS/03.06.04. His wife Mrs.Indira Ramakrishnan had undergone treatment for (1) Carcinoma Breast with Lymphangitis Carcinornatosis Lung (2) Dilated Cardiomyopathy with Moderately severe LV Dysfunction.

2. Earlier she was undergoing treatment at Sudheendra Hospital at Ernakulam due to cough and breathlessness from 12.5.2005 to 16.5.2005. She again developed breathlessness suddenly on 18.5.2005 and she was taken to the Lakeshore Hospital at Ernakulam on the same date. According to Annexure A-5 discharge summary issued by the Department of Medical Oncology of the said Hospital, she was admitted on 18.5.2005 for breathlessness. She was administered with chemotherapy with injection Endoxan and injection Adriamycin on 19.5.2005 and she tolerated chemotherapy well and was discharged on 21.5.2005. Similarly, on complaining of breathlessness around midnight she was again admitted to the Lakeshore Hospital on 5.11.2005. After in house treatment, she was discharged on 11.11.2005 as she became symptomatically better. For the aforesaid duration of treatment the Lakeshore Hospital has given the applicant a bill of Rs.45563.82. Thereafter, the applicant's wife was

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treated at Amritha Institute of Medical Science Hospital, Ernakulam and finally she passed away on 21.11.2007. The respondents returned the bills submitted by the applicant for reimbursement of medical expenses vide Annexure A-3 dated 20.4.2007 stating as under :-

“ With reference to the letter cited above, the claim is returned from CMD stating that the same is not qualified for reimbursement as per extent rules. The application with bills and relevant papers are enclosed herewith.”

3. The applicant has challenged the aforesaid Annexure A-3 letter rejecting his claim for reimbursement on the ground that it was issued in an arbitrary, discriminatory and contrary to law and hence violative of the constitutional guarantees enshrined to Articles 14 and 16. He has also stated that the Annexure A-3 is totally non speaking and without application of mind.
4. In the reply statement the respondents submitted that in the first discharge summary of the Lakeshore Hospital it is seen that the applicant's wife was admitted on 18.5.2005 and discharged on 21.5.2005 and according to the 2nd discharge summary, she was admitted on 5.5.2005 and discharged on 11.11.2005. According to them, there was no mention in both the discharge summaries that the applicant's wife was admitted in Lakeshore Hospital on emergency basis. They have also submitted that in terms of Annexure R-1 CPO's letter No.P(R)483/P/MDR I dated 4.5.1994 regarding “reimbursement of medical expenses when treatment is availed in Private/Government Hospitals, Railway employees and their dependents

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are eligible for free medical facilities at Railway Hospitals/ Health Units. Only if no such hospitals/health units are available near the place where the patient falls ill, he/she is eligible for treatment in government/recognised hospitals, as the case may be. Under exceptional and emergency conditions, if a patient avails treatment in a private hospital, his claim for reimbursement of medical expenses would be forwarded to Railway Board for consideration, if the Authorised Medical Attendant (AMA) and Chief Medical Director (CMD) is fully satisfied that there was adequate justification for the patient to have availed treatment in the private hospital. A few such circumstances given in the said letter are as under :-

1. If a patient falls ill at a place, where there are no government or Railway Medical Facilities available for treatment.
2. If transporting the patient to the nearest Government/Railway Hospital would result in loss of life.
3. If Authorised Medical Attendant certifies that Government/Railway facilities available near the place are inadequate to treat the patient.
4. If patient was admitted to the private hospital in an unconscious state by stranger in emergencies.

In all the above instances, it has to be ensured that the patient is kept as inpatient in the private hospital for the minimum time possible and is transferred to the nearest Railway/Government Hospital for further management. Railway Doctor of the section has to be informed of the incident at the earliest (within 48 hours) and it is very important that the AMA is fully convinced about the emergency nature of the patient's illness. The AMA may visit the patient at the place of illness, if necessary.



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5. I have heard Shri.Mohan Kumar on behalf of Shri.T.C.Govindaswamy for the applicant and Shri.Varghese John on behalf of Shri.Thomas Mathew Nellimoottil for the respondents. It is not disputed that the applicant's wife was a cancer patient and finally she succumbed to the disease. The objection of the respondents is that the applicant's wife was not admitted in the Lakeshore Hospital in an "emergency situation" but at the will of the applicant. However, it is seen from the record that the applicant's wife was admitted to the Lakeshore Hospital on 18.5.2005 after sudden breathlessness and it is found she had a history of a breast lump of 6 months duration. Again she was admitted in the said hospital on 5.11.2005 after complaining breathlessness around midnight. Just because the word "emergency" is not written in the discharge slip issued by the Lakeshore Hospital, it cannot be said that the applicant's wife was not admitted on emergency basis. In this case, when the patient who was suffering from cancer developed sudden breathlessness, it could only be seen as an emergency situation by the applicant and the other members of the family. Naturally, the relatives would rush the patient to the nearest hospital. The private hospital which issues the discharge slips may not use the particular words which the respondents' department wants to be there. Probably, the word "emergency" was mentioned in both the discharge slips, the respondents' department would have cleared his bills. In my considered opinion such narrow and highly technical view in the matter will not hold good. The impugned Annexure 'A-3 order also reveals the total non-application of

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mind by the respondents. They had rejected the applicant's claim by a totally non speaking order. Without any reasons the CMD, Madras has rejected the case of the applicant stating that the claim did not qualify for reimbursement as per the extent rules and the bills were returned to the applicant. When the competent authorities were in doubt, they could have even called the applicant and discuss the matter. I, therefore, consider that the rejection of the application of medical claim is totally arbitrary and without any application of mind. The Railway Doctor should have sympathetically considered the medical problems of the employees, the retired employees and their dependents. In the above facts and circumstances of the case, I allow this case. The respondents are directed to scrutinize the bills submitted by the applicant and reimburse the admissible amount within a period of two months from the date of receipt of a copy of this order treating the admission of the applicant's wife on both the occasions in Lakeshore Hospital, Ernakulam as admission on emergency basis. There shall be no order as to costs.

(Dated this the 24th day of February 2009)


GEORGE PARACKEN
JUDICIAL MEMBER

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