

CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH

O.A.No.286/2001.

Monday this the 25th day of February 2002.

CORAM:

HON'BLE MR.T.N.T.NAYAR, ADMINISTRATIVE MEMBER

Greeta Xavier, W/o K.J.Sebastian,  
Income Tax Officer, Ward 3, Division III,  
Central Revenue Building, J.S.Press Road,  
Cochin-18. Applicant

(By Advocate Shri M.R.Hariraj)

Vs.

1. Union of India represented by the  
Secretary to Government of India,  
Ministry of Finance, New Delhi.
2. The Commissioner of Income Tax, Kochi.
3. The Joint Commissioner, Income Tax,  
Ernakulam Range, Ernakulam 682018.

(By Advocate Shri T.A.Unnikrishnan, ACGSC)

The application having been heard on 25th February 2002  
the Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR.T.N.T.NAYAR, ADMINISTRATIVE MEMBER

The applicant, an Income-Tax Officer in Cochin, is aggrieved by A-9 communication dated 25.1.2001 whereby the claim preferred by her for reviewing the medical reimbursement of expenses incurred in connection with the coronary bye-pass surgery carried out for her husband Shri K.J.Sebastian at Malar Hospital, Chennai has been denied on the basis of the letter of the Zonal Accounts Officer, Central Board of Direct Taxes, Kochi dated 19.12.2000 (See A-9(2)). The applicant's case is that she had approached the authorised medical attendant at Ernakulam for the purpose of getting her husband's case referred to the specialist hospital viz., Sree Chitra Tirunal Institute for Medical Sciences and Technology, Trivandrum with which the Government of India had an arrangement for specialised treatment

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for coronary diseases. However, Sree Chitra Tirunal Institute for Medical Sciences and Technology expressed their helplessness in carrying out the necessary surgery with the urgency that the case demanded on the ground that they had heavy bookings and that the order of priority could not be changed. Accordingly, the specialised institute viz., Sree Chitra Tirunal Institute for Medical Sciences and Technology advised the applicant to approach any other suitable hospital for the purpose. Apparently, the applicant came back to the Authorised Medical Attendant who in turn recommended the patient's treatment at Malar Hospital, Chennai which is similarly placed like Sree Chithira Tirunal Institute as far as the governmental arrangement for medical purposes is concerned. The applicant, accordingly, got her husband admitted at Malar Hospital where a Coronary Bye-Pass Surgery was carried out and expenses totalling Rs.1,36,116/- were incurred which the applicant in due course claimed for reimbursement. The claim was restricted to Rs.75,000/apparently in accordance with A-10 which prescribes the maximum chargeable rates in respect of different items of medical expenses including hospitalisation. The applicant's case is that this ceiling is not applicable to the applicant since it deals with recognised private hospitals and the rates for coronary bye-pass surgery undertaken by such hospital, whereas the hospital where the coronary surgery was carried out in this case is for all legal and practical purposes Government Hospital as per Rule 2(d) of the Central Services (Medical Attendance) Rules (C.S.(M.A.) Rules for short).With this the applicant seeks the following main reliefs:

9. "i. To quash Annexure A9 and A10 to the extent it denies full reimbursement of medical expenses incurred by those who had undergone treatment in Private Hospital outside the state.

- ii. To declare that the applicant is entitled to get full reimbursement of medical expenses incurred by her for treatment in Malar Hospital, Madras.
- iii. To direct the respondent to pay the applicant the balance amount due to her towards reimbursement of medical expenses after adjusting Rs.72,000 already paid to her with 18% interest per annum.

2. The respondents resist the O.A. by stating that the expenses incurred by the applicant were rightly restricted to the maximum admissible reimbursement in the light of Annexure A-10, since Malar Hospital where the applicant's husband underwent treatment, is not a Government hospital but a private recognised hospital. In those circumstances, what was admissible as per the C.S.(M.A.) Rules was allowed to the applicant. The claim for the entire expenses incurred at the Malar hospital is therefore, unsustainable, according to the respondents.

3. I have heard Shri Hariraj, learned counsel for the applicant and Shri TA Unnikrishnan, ACGSC appearing for the respondents. It is contended by the learned counsel for the applicant that, she would have been entitled to the expenses incurred at the Sree Chitra Tirunal Institute had her husband been admitted in that institute under the advice of the Authorized Medical Attendant. The problem was severe and cried for urgent attention. Sree Chitra Tirunal Institute was not able to cope ~~up~~ with the case of the applicant's husband. These facts are not denied. It also cannot be denied that the applicant immediately approached the Authorized Medical Attendant again who, appreciated the urgency of the case and referred the same to Malar Hospital, Chennai. Survival was the main concern and since Malar Hospital was also a hospital with which the Government had arrangement, the applicant rushed her husband to that hospital

for his coronary surgery. In this connection, learned counsel for the applicant further states that there is no material distinction between the two hospitals viz, Sree Chitra Tirunal Institute and Malar Hospital, in as much as the latter is a private hospital with which the Government has arrangement in the same manner as with Sree Chitra Tirunal Institute. Malar Hospital is also on par with Government hospitals as per Rule 2(d) of C.S.(M.A.) Rules 1944. It is further submitted by the learned counsel that the Zonal Accounts Officer's communication dated 9.12.2000 forming part of A-9 is unsustainable. In this connection, learned counsel draws my attention to this Tribunal's order in O.A.222/01 dated 21.12.01 wherein after consideration of the relevant facts, this Tribunal has quashed the Zonal Accounts Officer's order dated 9.12.2001 which was A-11 in that case. Summing up his arguments, learned counsel for the applicant submits that the applicant's case ought to be reviewed in the light of the present legal position, after this Tribunal has struck down the order dated 9.12.2000 which forms the back-bone of the impugned order in this case.

4. I have considered the material placed on record as well as the contentions put forward by the learned counsel on either side. As per Rule 2(d) of C.S.(M.A.) Rules, the term "Government Hospital" is given an inclusive definition as per which the Government Hospital would include ".....any other hospital with which arrangements have been made by the Government for the treatment of Government servants." I find that Sree Chitra Tirunal Institute for Medical Sciences and Technology, Thiruvananthapuram and Malar Hospital, Chennai are hospitals with

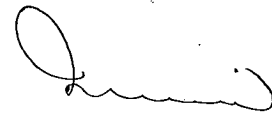
which arrangements have been made by the Government for the treatment of Government servants. This is not disputed. It has to be accepted that the applicant has availed the medical facilities at Malar Hospital, Chennai though in the normal course she was to get her husband's treatment including coronary bye-pass surgery done at Sree Chitra Tirunal Hospital, Thiruvananthapuram. The material on record does not suggest that the applicant has sought the treatment at Malar Hospital in a whimsical manner. It would appear that the applicant has taken her husband to Malar Hospital, Chennai after Sree Chitra Tirunal Institute expressed their inability to accommodate her husband. This was done on a proper reference from the Authorised Medical Attendant. A similar claim is seen to have been made in the case of one Smt. Marykutty of the Income Tax Department (Kerala) and that Zonal Accounts Officer had taken the stand that the claim was inadmissible. It was this stand that was formally communicated as per order dated 9.12.2000 which was impugned as Annexure A-11 in O.A.222/01. The said order dated 9.12.2000 has been quashed as per this Tribunal's order dated 21.12.01. In my considered opinion, therefore, since A-9(2) herein is nothing but A-11 in O.A.222/01, and since A-11 in that has been quashed with the direction to the respondents to reconsider the claim of the applicant and communicate a detailed order to her, the applicant's case has to be reviewed having regard to the findings of this Tribunal in the case cited above. In the circumstances, I hereby quash A-9 in as much as it adversely affects the applicant's claim. The respondents are directed to review the

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applicant's claim in accordance with law and bearing in mind this Tribunals' decision in O.A.222/01. A definite and speaking order in this case should be communicated to the applicant within a period of two months from the date of receipt of a copy of this order.

5. The original application is disposed of as above. No order as to costs.

Dated the 25th February 2002.



T.N.T.NAYAR  
ADMINISTRATIVE MEMBER

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A P P E N D I X

Applicant's Annexures:

1. A-1 : True copy of the letter dated 8.8.1998 issued by the Senior Medical Records Officer, Shri.Chithira Tirunal Institute for Medical Science & Technology, Trivandrum.
2. A-2 : True copy of the representation dated 10.8.1998 submitted by the applicant to the Director of Health Services, Trivandrum.
3. A-3 : A true copy of the order dated 30.10.1998 issued by the Superintendent of Health Services to the applicant.
4. A-4 : True copy of the Cardiac package statement dated 28.10.98 issued by the Malar Heart Foundation to the applicant along with the covering letter dated 11.8.1998.
5. A-5 : True copy of the representation dated 22.9.1998 submitted by the applicant to the Commissioner of Income Tax, Kochi.
6. A-6 : A true copy of the letter dated 30.10.1998 issued by the Income Tax Officer.
7. A-7 : A true copy of the representation dated 2.8.1999 submitted by the applicant to the Commissioner of Income Tax.
8. A-8 : A true copy of the representation dated 29.11.2000 submitted by the applicant to the Joint Commissioner of Income Tax.
9. A-9 : True copy of the letter No.ZAO/CHN/PCU/2000-01/435 dated 19.12.2000 issued by the Zonal Accounts Officer, Income Tax together with the letter No.C.109/MED/JCR/2001 dated 25.1.2001.
10. A-10: True copy of the Ministry of Health & Family Welfare O.M. No.S14025-43/94-MS dated 31.10.1994 issued by the 1st respondent.

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