

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.303/2007

Wednesday this the 24th day of October, 2007

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HON'BLE MR. GEORGE PARACKEN, JUDICIAL MEMBER

A.R.Mohammed Abdhul Wahid,
aged 52 years, S/o late Abdul Rahiman,
Technician Grade I,Ernakulam Marshalling Yard,
residing at Shiffil Manzil, Lajeneth Ward,
Alleppey.1.

.....Applicant

(By Advocate Mr. Martin G.Thottan)

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- 1 Union of India, represented by the General Manager, Southern Railway, Chennai.
- 2 The Director General, Railway Health Services, Railway Board, New Delhi.
- 3 The Chief Medical Director, Southern Railway, Park Town PO, Chennai.
- 4 The Divisional Railway Manager, Southern Railway, Trivandrum Division, Trivandrum.

...Respondents

(By Advocate Mr. Thomas Mathew Nellimootil)

This application having been finally heard on 3.10.2007, the Tribunal on 24.10.2007 delivered the following:

ORDER

HON'BLE MR. GEORGE PARACKEN, JUDICIAL MEMBER

The grievance of the applicant in this O.A is against the refusal of the respondents in reimbursing the expenses incurred by him for undergoing Emergency Coronary Artery Bypass Graft (CABG for short) surgery at the Amrita Institute of Medical Sciences (AIMS for short) at Ernakulam. According to the Respondent No.3, Chief Medical Director,



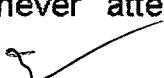
Southern Railway, Chennai, the reason for not granting reimbursement was that the applicant had undergone an Elective Surgery in the AIMS and not an Emergency Surgery.

2 The brief facts of the case are that the applicant who was working as a Technician at Emakulam Marshelling Yard of Southern Railways residing with his family at Alleppey was rushed to the Medical College Hospital, Alleppey on 26.1.2002 as he became unconscious. Since the applicant was in a critical condition, the Medical College authorities referred him to the AIMS, Ernakulam and he was got admitted there on 27.1.2002 on emergency basis and a pacemaker was implanted on him on 30.1.2002. In order to have complete cure, the doctors in the AIMS advised him to undergo a CABG Surgery and he was discharged on 2.2.2002 with the advise to have life saving medicines till the surgery is done. The Railway Hospital, Perambur (RH PER for short) being the authorized hospital to conduct CABG Surgery on the Railway employees, he reported to them immediately after he was discharged from the AIMS. After various tests conducted on him, the doctors confirmed that the applicant was suffering from complete heart block and opined that immediate surgery was required. Though the applicant visited the RH PER four times, the surgery was not conducted for one or the other reasons. The applicant was again asked to get admitted in the hospital on 9.4.2002. However, when he reported on the appointed date, he was not admitted for the reason that the doctor concerned was on leave and he was advised to continue with the medicines. Again the applicant reported to the Railway Health Unit at Ernakulam on 10.4.2002 and 13.4.2002 to get a new date for the surgery in the RH PER, but without any success. Suddenly the applicant again felt severe pain in the chest and he was rushed to the

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Medical College Hospital, and from there, on the advice of the doctors there, to the AIMS on 23.4.2002 and on 24.4.2002 itself the doctors conducted the CABG surgery on him. According to the Annexure.A2 discharge summary from the Department of Cardiology, AIMS, Kochi, the applicant was diagnosed as "complete heart block S/P PPI (DDD)on 30.01.2002 - Coronary Artery Disease -Triple Vessel disease with Good L.V function". He was also given the Annexure.A3 certificate stating that he was evaluated "in Cardiology OPD and diagnosed to have coronary artery disease, Triple Vessel Disease with good LV function and underwent CABG x 3 grafts on 2.4.2002 as an emergency procedure." After the operation, the applicant was billed Rs. 71,212/- for the treatment at the AIMS and he had to pay the amount from his own sources. Thereafter, when he has submitted the bill for reimbursement of the aforesaid amount, the Chief Medical Director returned the same stating that the applicant had not undergone an emergency surgery and it was only an elective surgery. Aggrieved with the aforesaid refusal to grant the reimbursement, the applicant made Annexure A5 representation to the 2nd respondent ie., Director General, Railway Health Service, Railway Board , New Delhi on 3.8.2005. The respondents have not even acknowledged receipt of the said representation. It is in this background that the applicant has approached this Tribunal with the present O.A.

3 In the reply submitted on behalf of the respondents, the Chief Medical Superintendent, Southern Railway, Trivandrum justified the stand taken by the respondents in this matter. According to them from the date of discharge of the first admission on 2.2.2002 to the date of second admission on 23.4.2002, there was a gap of 80 days and the applicant had never attended the RH, PER which has the specialized cardiology



department and also a referral hospital to the Indian Railway for cardio diseases for undergoing CABG surgery. According to them, the applicant ought to have availed the facilities at RH PER but preferred to avail the treatment at AIMS, Kochji, which is a private hospital. They have also submitted that even, according to the discharge summary, the applicant was admitted on 23.4.2002 and underwent surgery on 24.4.2002, which is an elective procedure and not an emergency one.

4 . . . I have heard Advocate Mr. Martin G.Thottan for the applicant and Advocate Mr.Thomas Mathew Nellimootl for the respondents. The contention of the respondents mainly is that the applicant has preferred to undergo the survey in CABG in the AIMS, Kochi, which is a private hospital rather than in the authorized hospital of the Railways at Perambur. From the facts as revealed in the case, it was the doctors at the Medical College Hospital, Alappey referred the applicant who was in a critical condition to the AIMS, Kochi initially on 26.1.2002. The doctors in AIMS immediately implanted a pace maker on 30.1.2002 and saved his life. However, they have advised him to undergo the CABG surgery for complete cure of his heart disease. He has, therefore, approached the Railway doctor at Ernakulam who had formally referred the applicant to the RH, Perambur and for getting admitted there to undergo the CABG surgery. He had visited the RH, PER atleast four times but because of compelling reasons for the hospital authorities, he was not given any specific date for the surgery. Lastly, when he attended the RH PER on 9.4.2002 on the directions of the hospital authorities, he was again not admitted for surgery because the concerned doctor was on leave. The Railway Health Unit, Ernakulam tried again on 10.4.02 and 13.4.02 to get a new date for the applicant's surgery, but they could not succeed. The applicant who had

already undergone the pacemaker implantation on 30.1.2002 again felt heavy pain in the chest and he was rushed to the Medical College Hospital, Alapuzha. They have referred him to the AIMS Hospital at Kochi. Immediately on the next date, ie., 23.4.2002 he was admitted in the AIMS and CABG surgery was conducted on emergency basis on 24.4.02 as per the medical report of the doctor who conducted the surgery at AIMS. Thereafter he has paid Rs. 71,202/- to the AIMS as the surgery charges. The stand taken by the respondents is that it was an elective surgery and not an emergency surgery. When the applicant who had a pacemaker implanted on him and when he felt severe chest pain again, it is rather unreasonable on the part of the respondents to ask him to report to RH, PER which is situated several miles away from the residence of the applicant. Moreover, it was the Medical College authorities at Alleppey referred the applicant to AIMS and it was again the doctors at AIMS have diagnosed the case of the applicant for an emergent surgery. When the applicant is suffering from severe chest pain and in a state of uncertainty about his life itself, it is impossible for him to take a decision against the advice of the doctors in AIMS to undergo immediate treatment at AIMS or to travel all the way to the Perambur Railway Hospital and wait to get a date for his surgery. In such circumstances the Respondents ought to have relied upon the opinion of the doctors in the AIMS which is a renowned hospital of South India, who advised the applicant to undergo an emergency CABG Surgery. The advise tendered by the Chief Medical Director, Southern Railway that the applicant had undergone an elective surgery and not an emergent surgery is only a hyper-technical objection. It only shows about the absolute lack of human touch on the suffering of the patients and the value for life itself. For every human being life is precious

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and the doctors attending him would only decide whether he had to undergo an emergency treatment/procedure or to a leisurely treatment/procedure. It is also noted with concern that the Indian Railway spread in the entire length and breadth of the country, there are only very few referral hospitals for CABG surgery. It is understood that in the entire South India, the only referral hospital for coronary treatment for Railway employees is available in Perambur at Tamilnadu. Every one would desire that there shall be a hospital available to him at a reasonable distance so that the patients may not die before they reach the hospital itself. It is, therefor, essential that the Railways would consider to set up more such hospitals so that their employees can reach the concerned hospitals immediately and get treatment at the earliest without being turned out time and again for want of doctors or for the long queue of waiting patients.

5 In the above facts and circumstances of the case, I consider that the impugned Annexure.A4 order is most arbitrary and unjustified and therefore, the same is quashed and set aside. The respondents are directed to reimburse the medical expenses incurred by the applicant for undergoing the CABG surgery at AIMS,Kochi within two months from the date of receipt of this order. In case the respondents fail to do so within the aforesaid two months, they would also be liable to pay interest thereon at 10 percent per annum from the date the bill was preferred by the applicant till the amount is reimbursed to him. There is no order as to costs.

Dated this the 24th day of October, 2007



GEORGE PARACKEN
JUDICIAL MEMBER