

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

Original Application No. 330 of 2008

...FRIDAY..., this the 3rd day of April, 2009

CORAM:

HON'BLE DR. K B S RAJAN, JUDICIAL MEMBER

K. Sumandran,
S/o. Late K. Kesavan,
Sena Bhavan, Kappil Road,
Chalakuzhi, Medical College P.O.,
Thiruvananthapuram,
Stenographer Grade III, Govt. of India,
Ministry of Youth Affairs and Sports,
National Service Scheme, Regional Office Centre,
C.G.O. Complex, Block-D, 2nd Floor, Poomkulam,
Vellayani P.O., Thiruvananthapuram : 22 ... Applicant.

(By Advocate Mr. P.A. Kumaran)

v e r s u s

1. Union of India represented by
The Secretary, Ministry of Youth Affairs
and Sports, Shastri Bhavan, New Delhi.
2. Joint Secretary, Government of India,
Youth Affairs and Sports, Shastri Bhavan,
New Delhi : 110 001
3. Deputy Programme Advisor,
National Service Scheme Regional Centre,
C.G.O. Complex, Block 'D', 2nd Floor,
Poomkulam, Vellayani P.O.,
Thiruvananthapuram : 695 552
4. Shri G.P. Sajith Babu,
Youth Officer and Drawing Disbursing Officer (D.D.O),
National Service Scheme Regional Centre,
C.G.O. Complex, Block 'D', 2nd Floor,



Poomkulam, Vellayani P.O.,
 Thiruvananthapuram : 695 552,
 Resding at : Brindavan, Dirpakkad, Aiyarakuzhy P.O.,
 Thiruvananthapuram : 691 559 ... Respondents.

(By Advocate Mr. Subhash Syriac, ACGSC (R1-3) and
 Mr. P.R. Padmanabhan Nair (R4)

The Original Application having been heard on 11.03.09, this Tribunal
 on 3.4.09 delivered the following :

O R D E R
HON'BLE DR. K B S RAJAN, JUDICIAL MEMBER

The nub of the grievance of the applicant in this OA is that his medical reimbursement bill has been truncated and for payment of balance amount, the fourth respondent (impleaded by name) demands documents, which according to the applicant, are 'irrelevant' and not called for by the Ministry of Health and Family Welfare.

2. Brief facts of the case are as under: -

- (a) The applicant is a CGHS beneficiary, vide Annexure A-1. His daughter Dayana Suman was admitted in a serious condition in the Medical College Hospital, Trivandrum on 21st October 2006 and on the next day she was shifted to a Multi Speciality Hospital, Kerala Institute of Medical Science in a serious condition for giving plasma Extracted platelet. This is the only hospital with such facility. Annexure A-2 is the relevant certificate issued by the said Kerala Institute of Medical Sciences. The applicant's daughter was discharged on 31st October 2006. Due intimation had been given in regard to the shifting of the patient to a private hospital, vide Annexure A-3. Annexure A-4 is the



relevant bill in respect of treatment given by the Kerala Institute of Medical Sciences to the daughter of the applicant and the applicant restricted the claim to Rs 35797/- equal to the ceiling as for CGHS entitlement. This bill, which was presented to the Regional office, was forwarded to the administrative ministry of the applicant, viz Ministry of Youth Affairs and Sports on 22nd December 2006. Vide Annexure A-5, the applicant addressed a communication wherein he had explained the circumstances under which he had to shift his daughter from Medical College Hospital to Kerala Institute of Medical Sciences and had also stated that as 21st and 22nd October 06 were Holidays in CGHS and due to the serious condition of the patient, he could not get a referral letter from the CGHS dispensary but he had informed the office. He had requested for the passing of the bill amount of Rs 35,797/-.

(b) While the above is the narration in respect of the medical reimbursement bill of the applicant's daughter, the applicant himself met with an accident and was admitted to S.F. Fort Hospital, Trivandrum, a CGHS recognized Private Hospital on 28th March 2007 in respect of which he had submitted a medical reimbursement bill (Annexure A-6), for Rs 55,203/- limiting the claim to the CGHS entitlement. Annexure A-6 refers. However, the amount reimbursed was only Rs 24075/-. This truncation of the reimbursement prompted the applicant to move a representation dated 2nd August, 2007, vide Annexure A-8.

(c) The matter was referred to the Ministry of Health and Family Welfare who had advised that since the medical claim of the applicant is less than Rs 2 lakhs, sanction could be given by the Department itself under the provisions of their letter dated 27-12-2006. The said order dated 27th December 2006 also provides, "The Heads of Departments (HoDs) may decide the cases of reimbursement of medical claims in respect of

treatment obtained in emergency at private hospital/private nursing home/private clinic, subject to item-wise ceiling as per rates prescribed for CGHS beneficiaries without financial limit on the total amount to be reimbursed." (Annexure A-9).

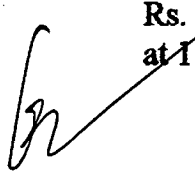
(d) The applicant penned a representation to the fourth respondent requesting him to settle the bill, vide letter dated 24-04-2008 at Annexure A-10. This was followed by another representation dated 01-05-2008 vide Annexure A-11.

(e) The 2nd respondent performed its part by communicating the advice it received from the Ministry of Health and Family welfare in respect of the medical claim for the applicant's daughter's treatment and as regards the applicant's own medical treatment, the Department has accorded its approval. However, due to personal animosity, the fourth respondent has not heeded to the advice and clarification of the Department.

(f) The applicant has, therefore, preferred this OA seeking the following relief:-

(i) Declare that applicant is entitled to reimbursement of the medical expenses incurred for the treatment of Dayana Suman, daughter of the applicant and to direct the respondents to reimburse the medical expenses incurred for the treatment of Dayana Suman at Kerala Medical Science Institute of Trivandrum.

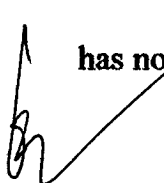
(ii) To declare that the applicant is entitled to reimbursement of the medical expenses incurred on item wise for emergency operation conducted on him for multiple fractures at S.F. Fort Hospital and to direct the respondents to sanction the CGHS entitled amount Rs. 54,328/- and pay the balance admissible amount with interest at 18% per annum for the delayed payment of medical claim.



3. While one counter had been filed on behalf of respondents 1 to 3, a separate counter was filed by respondent No. 4 who had been impleaded in his personal capacity. It is pertinent to note here that in both the counters, the common averment is that certain documents, which had been called for by the department, have not been made available by the applicant, despite reminders. Para 4, 6 of Annexure 4-a and Annexure 4(c) of the Counter of respondent No. 4 and Para 10, Annexure R1(b) and R1(c) of counter of Respondent No 1 to 3 refer. Annexure R1(e) is the clarification that where the amount is less than 2 lakhs, the department has the power to accord sanction and accordingly sanction was accorded in respect of the claim of applicants' daughter's medical treatment and in so far as the claim of the applicant is concerned, the claim is to be settled item-wise.

4. In his rejoinder, the applicant has annexed a copy of the note from Ministry of Youth Affairs to the Ministry of Health and Family Welfare and communication dated 19th May 2008 from the Ministry of Youth Affairs to the Regional Office, Trivandrum reflecting the sanction accorded by the Head of the Department for payment of the balance admissible amount.

5. Counsel for the applicant argued that despite clear approval the matter has not been settled. He has invited the attention of the Tribunal to the decision



of the Principal Bench of the CAT in OA No. 1603/07 decided on 19th December, 2007 wherein the Tribunal has held as under:-

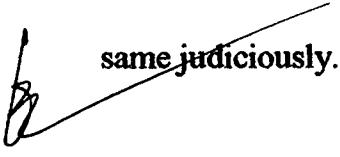
“7. In this backdrop, learned counsel for respondents 1 to 4 by producing a circular issued by Delhi Government Employees Health Scheme states that Sir Ganga Ram Hospital has been recognized only for diagnosis purpose and as such not being a recognized and approved hospital for the treatment extended to the applicant for surgery of hernia, the claim made by the applicant is not admissible as per rules.

8. I have carefully considered this aspect of the matter. As per O.M. issued by Central Govt. Health Scheme dated 23.10.2001, which is adopted by the Govt. of NCT of Delhi vide their O.M. Dated 6.10.2003, wherein under Annexure 'A' at Sl. No. 15, Sir Ganga Ram Hospital has been approved for Renal procedure and Gastroenterology procedure, etc. The subsequent notification of 7.2.2006 under Delhi Government Employees Health Scheme has not superceded specifically the circular issued by Govt. of NCT of Delhi on 6.10.2003 rather it has been provided that the Scheme has been modified vide O.M. Dated 6.10.2003. This is a clear acceptance that the notification of 6.10.2003 was in vogue and was not disturbed. Moreover, from the notification of 7.2.2006, it appear that the hospitals have been recognized apart from certain hospitals for general treatment for diagnosis purpose.”

6. The question in the instant case is not as to the admissibility or otherwise of the claim. Documents show that necessary sanction has been accorded by the administrative ministry for reimbursement of the admissible amount and the Ministry of Health and Family Welfare has clarified as to what is the admissible amount in respect of the claim of the applicant (item wise). Delay is purely on the ground that certain documents called for have not been furnished by the applicant. According to the applicant, these documents are ‘irrelevant’ and not contemplated in the Ministry’s order dated 7th March 2000. The applicant has

indexed his finger against respondent No. 4, vide Annexure R 4(d) against whom the applicant has made various allegations before the Ministry of Youth Affairs vide Annexure A-11. If the requirement of the documents as called for is only as per the fourth respondent, the other respondents would not have referred to in their counter, as to the non filing of such documents. In fact, their statement/averment is more emphatic than that of the fourth respondent in this regard. For a claim to be settled, requisite documents shall have to be produced or where permissible, sanction for waiver of the same has to be requested for. Thus, the fault remains with the applicant and not with the authorities. If the applicant furnishes necessary documents, then only the respondents could act in accordance with their powers. This Tribunal could well direct the respondents to settle the bills within a fixed time frame from the date of receipt of the requisite documents from the applicant.

7. The applicant has obtained the treatment in respect of his daughter from a private institution in 2006. In view of the time distance, certain documents/certificate may not be available at this distance of time. In the event of non availability of such document, despite his earnest attempt, if the applicant makes a request for waiver of such documents and if the authorities enjoy discretionary powers in this regard, the respondents shall consider the same judiciously.



8. In view of the above, this application is disposed of with a direction to the applicant to make available the requisite documents or else make an application for waiver of the same and in the event of the respondents receiving the same, the case of the applicant shall be considered for settling the two medical claims as admissible to him, if need be by according sanction for waiver of certain documents. Time calendared for the respondents to settle the claim is eight weeks from the date of receipt of the documents from the applicant.

9. No costs.

(Dated, the 3rd April, 2009)



(Dr. K B S RAJAN)
JUDICIAL MEMBER

cvr.