

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No. 341 of 2000

Thursday, this the 11th day of January, 2001

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HON'BLE MR. A.M. SIVADAS, JUDICIAL MEMBER
HON'BLE MR. G. RAMAKRISHNAN, ADMINISTRATIVE MEMBER

1. K.P. Damodaran,
Retired Licensing Assistant,
S/o. late K.S. Parameswaran,
39/2730, Kizhakke Illom,
D.H. Road, Kochi - 682 016Applicant

[By Advocate Mr. M.V. Somarajan]

Versus

1. The Joint Director,
Central Government Health Scheme,
3/45 Kesavadasapuram,
Trivandrum - 695 004

2. Union of India, represented by its Secretary,
Ministry of Health & Family Welfare,
New Delhi.Respondents

[By Advocate Mr. M. Rajendrakumar, ACGSC]

The application having been heard on 11th of January, 2001,
the Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR. A.M. SIVADAS, JUDICIAL MEMBER

The applicant seeks to set aside A4, to declare that he is entitled to receive medical reimbursement for the inpatient treatment taken from Amrita Institute of Medical Sciences and Research Centre, Kochi considering the extraordinary circumstances of the case and to direct the 1st respondent to pay the claim amount with interest from the date of receipt of the claim till the date of payment.

2. The applicant is a retired Central Government employee. In the year 1996, he became a beneficiary of the Central Government Health Scheme (CGHS for short). His wife was suffering from heart related illness for some time and

developed breathing problem on 19-2-1999 and chest pain also. It was decided to take her to Trivandrum for further check up and on the way to Trivandrum her condition became critical and the applicant was forced to take her to the nearby hospital namely Amrita Institute of Medical Sciences & Research Centre at Kochi. She was kept in the Critical Care Unit for three days and was shifted to payward for another three days and was discharged on 26-2-1999. The claim made by the applicant for reimbursement was turned down by the 1st respondent as per A4. The applicant says that A4 is not sustainable in law in the light of the pronouncement of the Apex Court and also the ruling of the Delhi High Court.

3. Respondents in the additional reply statement have specifically stated that the 1st respondent is empowered to allow reimbursement after verifying the facts and considering the merit of the case in extreme emergency condition in respect of the treatment taken in unrecognized private hospitals that too within CGHS covered city only. The applicant's wife was admittedly treated in an unrecognized private hospital in Kerala. In the light of the stand taken by the respondents in the additional reply statement, the 1st respondent's competency is only if the treatment was taken within the CGHS covered city in Kerala. It is the admitted case of both sides that Kochi is not a CGHS covered city.

4. R-1 is an extract from the CGHS compilation. Para 17(3) contained in R-1 says that the facilities available under the Scheme shall in the case of pensioners, be limited to areas covered by the scheme and no reimbursement shall be made when Pensioners and members of their families take medical treatment at a place not covered by the scheme unless specifically so authorized by the Ministry of Health. So, in a case like this, it is for the Ministry of Health to authorize. The applicant

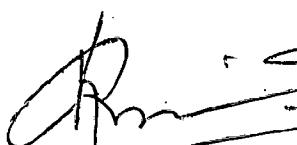
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has alleged that the 1st respondent is the exclusive authority of sanctioning the claim of the applicant and to grant relaxation of rules in deserving cases subject to verification of genuineness of the case with the authority of the hospital concerned. This averment is denied by the respondents in their additional reply statement. There is no material produced in support of the stand of the applicant that the 1st respondent is the exclusive authority for sanctioning the claim of the applicant and to grant any relaxation of rules in deserving cases subject to verification. That being the position, in this case, the 2nd respondent, the Secretary, Ministry of Health, appears to be the proper authority who could consider the case of the applicant and pass appropriate orders.

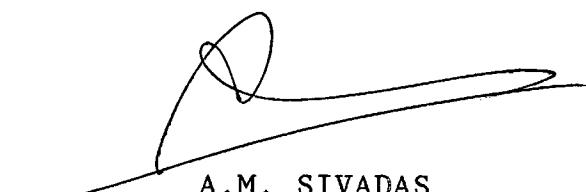
5. Accordingly, the applicant is permitted to submit a representation to the 2nd respondent, the Secretary, Ministry of Health and Family Welfare, New Delhi, within fifteen days from today. If such a representation is received, the 2nd respondent, the Secretary, Ministry of Health and Family Welfare, New Delhi, shall consider the same and pass appropriate orders thereon within two months from the date of receipt of the representation, bearing in mind the rulings of the Apex Court and of other High Courts on the subject.

6. The Original Application is disposed of as above. No costs.

Thursday, this the 11th day of January, 2001



G. RAMAKRISHNAN
ADMINISTRATIVE MEMBER



A.M. SIVADAS
JUDICIAL MEMBER

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