

Central Administrative Tribunal
Lucknow Bench, Lucknow
O.A.No. 194/2007

This the 1st day of September, 2010

HON'BLE DR. A.K. MISHRA, MEMBER (A)

Sukh Lal, aged about 55 years, s/o Late Bal Deo, R/o Opposite Ram Bharosey, Inter College, Telibagh, Lucknow.

Applicant

By Advocate Shri R.C. Diwedi.

VERSUS

1. Union of India through the Secretary, Ministry of Defence, Government of India, New Delhi.
2. The Chairman, Canteen Stores Department, 'Adelphi' 119, Maharshi Karve Road, Mumbai 400 020.
3. The Area Manager, Canteen Stores Department, Jail Road, Lucknow.

Respondents

By Advocate Shrifor Shri K.K. Shukla.

ORDER

By Hon'ble Dr. A. K. Mishra, Member (A)

This O.A. has been filed with a prayer to set aside the decision of the respondents authority allowing only Rs. 89,100/- against the claim of Rs.1,48,712/- towards medicine and hospital charges and for a direction to the respondents authorities to fully reimburse this amount and to refund any amount which has been recovered on the basis of the short sanction.

2. The applicant, who is an employee of the Area Manager, Canteen Stores Department coming under the Ministry of Defence, Government of India developed cardiac problem. The Command Hospital on being satisfied that he needed specialized treatment, referred him to Sanjay Gandhi Post Graduate Institute of Medical Sciences, Lucknow (to be referred as SGPGIMS

Lucknow) and an advance was paid directly to the institute which incidentally is a government hospital. The applicant was discharged after undergoing angioplasty and he submitted medical bills amounting to Rs. 1,78,912.51 duly certified by the competent medical authority of SGPGIMS. But after scrutiny, only Rs. 89,100.00 was allowed against the claim of Rs. 1,48,712/- made in the 3rd bill towards medicine and hospital charges. Hence his grievance.

3. At the time of hearing, the counsel for the respondents relied on the office memorandum dated 22.4.1998 which is about Revision of reimbursable charges of by-pass surgery taken up in Private Hospitals recognized at par with CGHS. It says that reimbursement claim for by-pass surgery should be limited to 89,100/- where the surgery is undertaken in recognized private hospitals.

4. The learned counsel for the applicant submits that the office memorandum is in respect of by-pass surgery whereas his case is that of angioplasty; and secondly, he was treated in a government medical institution, not a private hospital, as per the reference of the respondent authorities. He draws my attention to Rule-6 of Central Services Medical Attendance Rules, according to which, a Government servant is entitled to treatment free of charges and full reimbursement in respect of any amount paid by him on accounts of such treatment on production of a certificate in writing by the authorized medical attendant in this behalf. The provisions of Rule-6 is extracted below:-

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"6. (1) A Government servant shall be entitled, free of charge, to treatment-

- (a) In such Government hospital at or near the place where he falls ill as can in the opinion of the authorized medical attendant provide the necessary and suitable treatment; or
- (b) If there is no such hospital as is referred to in sub-clause(a) in such hospital other than a Government hospital at or near the place as can in the opinion of the authorized medical attendant, provide the necessary and suitable treatment.

(2) where a Government servant is entitled under sub-rule(1), free of charge, to treatment in hospital, any amount paid by him on account of such treatment shall, on production of a certificate in writing by the authorized medical attendant in this behalf, be reimbursed to him by the Central Government"

Provided that the controlling officer shall reject any claim if he is not satisfied with its genuineness on facts and circumstances of each case, after giving an opportunity to the claimant of being heard in the matter. While doing so, the controlling officer shall communicate to the claimant the reasons, in brief, for rejecting the claim and the claimant may submit an appeal to the Central Government within a period of forty five days of the date of receipt of the order rejecting the claim."

5. In view of this clear provision of law, the applicant is entitled to full reimbursement of medical bill which is certified by SGPGIMS authorities. In this case, the advance amount was paid to SGPGIMS directly and they have retained the admissible cost out of the advance amount and refunded the balance amount of Rs. 1288.00. Earlier, the applicant had filed O.A. 234/2000 in which, the plea of the respondent was that the applicant had failed to account for the full amount by furnishing the details of the expenditure for the medical treatment. Since, the details were furnished along with the rejoinder in that O.A., the respondents were directed to examine the documents and

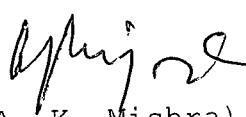
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reconsider the sanction of the unpaid amount of Rs. 20,000/-.

6. Now a different plea has been taken which is not in consonance with the provisions of rules. Therefore, the respondents are directed to permit full reimbursement of the amount of Rs. 1,48,712/- against the claim towards medicine and hospital charges submitted along with the 3rd bill of the applicant if this amount has been certified by SGPGIMS authorities, notwithstanding the ceiling fixed by the health department in their office memorandum dated 22.04.1998 which incidentally is for private hospitals and for by-pass surgery and, in any case, could not override the provisions of the rules.

7. Accordingly, the O.A. is allowed and the order-dated 31.3.2006 is set aside. It is directed that any recovery made from the salary of the applicant in this connection should be refunded preferably within a period of one month. No costs.


(Dr. A. K. Mishra)

Member (A)