

Central Administrative Tribunal, Lucknow Bench, Lucknow

Original Application No. 205/2009

This the 22nd day of November, 2013

Hon'ble Sri Navneet Kumar, Member (J)

K.K. Singh aged about 65 years son of late Sri Ishwari Prasad resident of 5/597, Vikas Khand, Gomti Nagar, Lucknow.

Applicant

By Advocate: Sri Wasif Ahmad

Versus

1. Union of India through its Secretary, Govt. of India, Ministry of Railways, Railway Board, New Delhi.
2. General Manager, North Eastern Railway, Gorakhpur.
3. Chief Medical Director, North Eastern Railway, Gorakhpur.
4. Chief Medical Superintendent, North Eastern Railway, Badshah Nagar, Lucknow.

Respondents

By Advocate: Sri S. Verma

(Reserved on 24.10.2013)

ORDER

BY HON'BLE SRI NAVNEET KUMAR, MEMBER (J)

The present Original Applicant is filed under Section 19 of the AT Act with the following reliefs:-

- i) This Hon'ble Tribunal may graciously be pleased to quash the impugned order of rejection dated 7.9.2007 contained in Annexure No.1 to this application.
- ii) This Hon'ble Tribunal may graciously be pleased to direct the opposite parties to grant full payment of Rs.3,62,122/- as claimed by the applicant.
- iii) This Hon'ble Tribunal may graciously be pleased to pass such order and relief that deems fit and necessary in the circumstances of the case.
- iv) Cost of the application may be awarded to the applicant.

2. The brief facts of the case are that the applicant who was working in the office of the respondents, retired on 30th September, 2004 as Chief Commercial Manager, North

Western Railway, Jaipur after serving with the respondents for about 35 years. At the time of retirement, the applicant has deposited one month's salary and become entitled for free medical facilities for himself along with his wife. Subsequently, in 2006, the applicant suffered from the heart attack and was admitted in Ram Manohar Lohiya Hospital, Lucknow and subsequently, the applicant informed the Railway Hospital on telephone and also wrote a letter to NER Div. Hospital, Badshah Nagar, Lucknow informing the Chief Medical Superintendent about his ill health and also requested for referring his case for further treatment to a specialized Heart Institute and thereafter, the applicant was given treatment at Escort Heart Institute & Research Centre, New Delhi and from where he discharged on 25.11.2006 and subsequently when the applicant came back to Lucknow, he submitted his medical bill for reimbursement amounting to Rs. 3,62,122/- The claim of the applicant was subsequently considered and rejected by the authorities vide letter dated 7.9.2007, wherein it is stated that at the time of admission in Escort Heart Institute and Research Centre, his pulse rate was 99 per minute and Blood Pressure was 120/90 and he was not given emergency treatment at the time of admission. The angiography was done on 21.11.2006 and other treatment was given in a planned manner and there was no emergency. Therefore, it cannot be said that it was an emergency to the applicant as such the claim was rejected. Subsequently, the respondents accorded the approval as a Special case for reimbursement of an amount of Rs. 2,22,940/- which was sanctioned as a non-referral case. The applicant again on 17.2.2009 wrote a letter to the Secretary, Govt. of India, Ministry of Railways, Railway Board, New Delhi for

reconsidering his case and also requested for reimbursement of the remaining amount of medical claim.

3. The respondents filed their reply and through reply, it is categorically mentioned by the respondents that the applicant has wrongly arrayed Secretary, Ministry of Railways, Railway Board, New Delhi as a first respondents. Along with reply, the respondents have accepted this fact that the applicant submitted the medical bill of Rs. 3,62,122/- and the medical reimbursement was made to the applicant to the tune of Rs. 2,22,940/- and it is also pointed out by the learned counsel for respondents and denied the contention of the applicant that Railway Hospital at Lucknow and New Delhi has no specialized facilities for heart disease. The respondents have also vehemently denied the averment of the applicant and submitted that both at Lucknow and New Delhi Railway Hospital are fully equipped to treat heart deceases. It is also pointed out by the respondents that the applicant was discharged from Ram Manohar Lohiya Hospital, Gomti Nagar, Lucknow and was referred to Railway Div. Hospital, Badshah Nagar, Lucknow and thereafter, he was referred to Northern Railway, Central Hospital, New Delhi vide letter dated 19.11.2006 which is evident from Annexure No. 6 to the O.A. The said letter clearly provides that the Chief Medical Superintendent, NER has referred the case of the applicant to the Medical Superintendent, Central Hospital, New Delhi. Apart from this, the respondents have also taken a ground that at the time of admission in Escort Heart Institute and Research Centre, the pulse rate of the applicant was 99 per minute and B.P. was 120/90 and he was not given any emergency treatment in Escort Heart Institute and Research Centre, New Delhi. Accordingly, due to non-

referral case, the medical reimbursement has been sanctioned at the AIIMS rate.

4. Instead of filing Rejoinder Reply, the applicant counsel has filed written arguments and through written arguments, the applicant reiterated the averments made in the O.A.

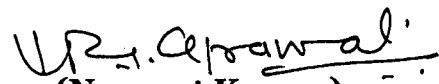
5. Heard the learned counsel for the parties and perused the record.

6. The undisputed facts are that the applicant who was working in the respondents organization, retired on 30.9.2004 and subsequently, he was admitted in the Ram Manohar Lohiya Hospital, Lucknow for some heart ailment. From there, he was referred to Divisional Railway Hospital, NER, Lucknow and thereafter, from there, he was referred to Central Hospital, N.R., New Delhi vide letter dated 19.11.2006. The applicant without any reference has got himself admitted in the Escort Heart Institute and Research Centre, New Delhi and there he undergone with angiography and thereafter, he received certain treatments and after staying for a period of 1-1/2 months, he submitted the medical bill amounting to Rs. 3,62,122/- for reimbursement. The respondents considered the case of the applicant for reimbursement and it is also seen that the applicant was admitted in Escort Heart Institute and Research Centre, New Delhi, his pulse rate was 99/min. and B.P. 120/90 and after the physical examination, nothing abnormal was found. Apart from this, the applicant was not given any emergency treatment at the time of admission and invasive intervention was done only on 21.11.2006 and thereafter, after two days, the angioplasty was done. Undoubtedly, the applicant was not given emergency treatment and without reference from the Central Hospital, N.R., New Delhi the applicant got himself admitted directly to Escort Heart Institute and Research Centre,

New Delhi. Accordingly, the respondents rejected the entire claim of the applicant and cleared it for a sum of Rs. 2,22,940/- as a non referral case. The said sanction was issued with concurrence of the Finance Directorate of Ministry of Railways in accordance with relevant rules and this was done as a special case in response to the applicant's letter dated 8.10.2007 addressed to the General Manager, NER, Gorakhpur and after sympathetically considering it as a non-referred case to a non-Govt.Hospital. The Hon'ble Apex Court in the case of **State of Punjab and others Vs. Mohan Lal Jindal reported in (2002) Supreme Court Cases (L&S) 189** has observed that "***The medical reimbursement available to the respondents will be at the AIIMS hospital rate which has already been paid to him.***"

7. It is also not disputed to the extent that the case of the applicant was duly referred from Lucknow to New Delhi but it was only for Central Hospital, N.R., New Delhi but not to the Escort Heart Institute and Research Centre, New Delhi. The applicant on his own chosen to admit himself in the Escort Heart Institute and Research Centre, New Delhi and got the treatment done. Despite this, under the sympathetic consideration, case of the applicant was considered and an amount of Rs. 2,22,940/- was paid to the applicant at the AIIMS rate. Apart from this, no right can be absolute in a welfare State and every individual right has to give way to the right of the public at large. Since the applicant was only referred to the Central Hospital, NR, New Delhi but he has chosen himself to visit and got himself admitted in the Escort Heart Institute and Research Centre, New Delhi, and the entire treatment was done, as such, the amount which is already paid to the applicant is not unjustified.

8. Accordingly, I am not inclined to interfere in the prayer sought for in the O.A., as such, the O.A. is dismissed. No order as to costs.


(Navneet Kumar)
Member (J)

HLS/-