

Central Administrative Tribunal Lucknow Bench Lucknow.

O.A. No. 271/2007

Lucknow, this the 7th day October, 2008

Hon'ble DR. A. K. MISHRA, MEMBER(A)

B.C. Sinha, son of late Anand Behari Lal, aged about 70 years, resident of 2/218, Vishal Khand, Gomti Nagar, Lucknow retired as Senior Electrical Engineer (Cons.) Northern Railway, Lucknow.

Applicant

By Advocate Sri K.P. Srivastava

Versus

1. Union of India through General Manager, Northern Railway, Baroda House, New Delhi.
2. Chief Medical Director, Northern Railway Baroda, House, New Delhi.
3. Chief Medical Superintendent, Northern Railway, Divisional Hospital, Lucknow.

Respondents.

By Advocate Sri B.B. Tripathi for Sri N.K. Agorwal.

Order

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

The applicant has challenged the order of Chief Medical Superintendent, Respondent No. 3 dated 14.5.2007 rejecting his claim for reimbursement of medical bills in connection with treatment of his wife.

2. The applicant is a retired employee of the Northern Railway. He has obtained a regular medical card (RELHS No. 0281 issued on 30.8.93)



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which entitles free medical treatment both for his own self as well as his wife. During December 2003, his wife suffered from Hernia problem and was brought to Divisional Hospital, Lucknow many times for check up and treatment. During February 2004, her case was referred to S.G.P.G.I. MS, Lucknow for investigation which revealed that she had cardiac problems also. The then Chief Medical Superintendent of Railway Divisional Hospital was of the view that the patient should be operated upon in a speciality hospital preferably at S.G.P.G.I. On 17.2.2005, the applicant brought his wife to the Divisional Railway Hospital Lucknow and the senior Divisional Medical Surgeon after examining the patient and on going through the records, referred the case to the Divisional Medical Officer, Anaesthesia for his opinion. The Anaesthetist observed that there was a definite risk of cardiac complications during/after surgery. Surgical operation could be attempted at the Railway Hospital but with a very high degree of risk. According to him, the patient should be operated upon at a medical center which is fully equipped to deal with any emergency/complication that may develop. With this recommendation, the case was referred back to the surgery department. However, the Divisional Surgeon insisted that the applicant should give his consent for operation of the patient at the Divisional Railway Hospital. But in view of the opinion expressed by the Anaesthetist, the applicant was reluctant to give such consent. He though it wise to get his wife admitted in SGPGI, MS Lucknow. She was taken to SGPGI, MS on 18.2.2005 and was discharged on 2.3.2005.

3. He submitted a claim for Rs. 32,600.45 Paise towards reimbursement. The Chief Medical Superintendent, Northern Railway recommended it for Rs. 30,590.45. However, even inspite of such recommendation, the Chief Medical Director, after calling for the full details contained in the



discharge report of SGPGI, came to a finding that hospitalization of the patient for repair of Umbilical Hernia came under non- emergency category and, as per extant rules, the expenses for such hospitalization in a non -Railway Hospital were not reimbursable. Hence this application.

4. The respondents have not filed detailed Counter Affidavit, inspite of many opportunities granted. For better appreciation, the medical records of the patient were called for. It is seen that, the Chief Medical Superintendent recommended the case for reimbursement of Rs. Rs. 30,590.45/- on the following grounds:

- (i) the Anaesthetist had clearly mentioned about risk factor.
- (ii) Although the applicant should have taken the reference from the Railway surgeons prior to taking the patient to SGPGI, MS Lucknow, yet benefit of doubt should be given to the applicant.
- (iii) The elective surgery for Umbilical Hernia was got operated in SGPGI, MS Lucknow which is an Autonomous Government Hospital and not in a private Hospital.

Therefore, according to him, the case fulfilled the criteria of IRMM 2000 Para 647 (2) and 648 (1) to some extent. He also recommended that the case was genuine and the reimbursement of the amount should be sanctioned by the competent authority. It is further seen that the proposal had also concurrence of the internal finance for reimbursement of Rs. 30,590/-. Inspite of such recommendations, the Director took a different view stating that there was no emergency and therefore, hospitalization expenses in a non -railway hospital under non- emergent circumstances could not be reimbursed.

5. On going through the case record and the averments of the applicant which have not been denied, it is established that there was a



need for surgical operation of his wife. Because of her cardiac problem, the Anaesthetist had given the opinion that high risk was involved if the surgical operation was not made in a medical center which is not fully equipped to deal with emergencies. In view of such clear opinion, it was perfectly legitimate for the applicant not to give his consent for surgical operation in Railway Hospital. The operation has been conducted at SGPGI, MS Lucknow, which is a reputed hospital of the State Government and recognized by the Railway for speciality treatment. The claim has been recommended by the Medical Superintendent and concurred in by the finance. Under the circumstances, I find merit in this application and direct the respondent No. 3 to allow the reimbursement of the recommended amount of Rs. 30,590/- within a period of 3 months. No costs.



(Dr. A. K. Mishra)
Member (A)