

## CENTRAL ADMINISTRATIVE TRIBUNAL

PATNA BENCHO.A.NO.: 332 OF 2006[Patna, this Wednesday, the 22<sup>nd</sup> Day of November, 2006]C O R A M

HON'BLE SHRI JUSTICE P.K.SINHA, VICE-CHAIRMAN.

Urmila Devi aged about 56 years, W/o Late Ram Chandra Prasad III, resident of village Garju Bigha, P.O.- Guraru Mills, P.S.- Konch, District- Gaya, at present residing at mohalla - Manraj Bigha, Chhotki Delha, P.O.- Gaya, R.S.P.S.Delha, District - Gaya. ....APPLICANT.

By Advocate :- Shri Ramesh Singh.

Vs.

1. The Union of India through the Chief Postmaster Genera, Bihar Circle, Patna.
2. The Senior Superintendent Officer, Postal Department, Gaya Division, Gaya. ....RESPONDENTS.

By Advocate :- Shri U.S.Sharma, ASC.

O R D E R [ORAL]

Justice P. K. Sinha, V.C.:- Heard learned counsels for both the sides. In the circumstances of the case, this application is being disposed of at the admission stage itself.

2. The applicant is widow of Ram Chandra Prasad III who was at the relevant time posted at Gaya under Postal Department. It is not disputed that the husband of the applicant who was posted as SPM, Gaya R.S.P.O. fell ill and was treated by the Sr. Medical Officer, Postal Dispensary, Gaya who, under seal of Chief Medical Officer I/c, P&T Dispensary, Gaya referred the husband of the applicant for his treatment, to the IGIMS at Patna also mentioning the disease, on 12.05.2005. It is also admitted position that



thereafter the applicant's husband was rushed for treatment at IGIMS, Patna where he was admitted but died in course of treatment on 04.09.2005. As per certificate granted by the Registrar of Birth & Death at Annexure-1, this also shows that he had died at IGIMS, Sheikhpura, Patna.

3. The applicant thereafter preferred claim for medical reimbursement to the tune of Rs.1,02,681.60. The payment was refused by the Department of Posts vice letter at Annexure-A/4 dated 23.02.2006 stating that the claim was not genuine.

4. Now, in the written statement the reason for denial of medical reimbursement has been given to be that the treatment was so given to the deceased employee at IGIMS, Patna on the advice of Sr. Medical Officer at Postal Dispensary and the matter of reimbursement was referred to the O/o the CPMG, Bihar Circle as the Sr. Supdt. Of Post Offices was not competent to sanction payment of that much amount. The O/o the CPMG, Bihar Circle, returned the whole matter with following observation - "There is no provision in Rule that Medical Officer I/c, P&T Dispensary will refer the patient directly outside the district hospital for specialist consultation outside the district vide Govt. of India decision M.H.,OM NoF.28-11/58-H.I.[No.6], dated 19.05.1958, may be consulted in Central Service [MA] Rules."

The concerned rule has been annexed at Annexure-R/1 to which I will revert back later.

5. The respondents have taken this as the only ground for refusing the medical reimbursement that the Sr. Medical Officer was not empowered to refer the employee to IGIMS, Patna which was outside the district of Gaya,



rather only the District Medical Officer could have done that.

6. Now, coming back to the official memorandum referred to in the written statement, with note thereupon as appearing in Annexure-R/1, is hereby reproduced :-

**“[2] Specialist consultation outside the district** – It has been decided that all Central Government servants and members of their families may avail of consultation with a specialist or other Medical Officer in the service of the Government stationed outside the district but within the State as the authorized medical attendant, certifies to be necessary, to such extent and in such manner as the specialist or Medical Officer may, in consultation with the authorized medical attendant, determine, subject to the condition that where the authorized medical attendant is not the District Medical Officer himself, the patient should ordinarily be examined by the District Medical Officer before permission to consult specialist outside the district is accorded under the provisions of Rule 5 ibid.

[G.I., M.H., O.M. No.F.28-11/58-H.I. {No.6}, dated the 19<sup>th</sup> May, 1958.]

**“NOTE :-** The intention in providing the safeguard that where the authorized medical attendant is not DMO himself, the case should ordinarily be examined by the DMO before permission to consult the specialist outside the district is accorded, is that patients with diseases for which facility for consultation is available within the district are not referred to specialist outside the district. Such cases should be examined by the DMO at the hospital as part of his normal duties and as such the question of charging of fees by him for such examination should not arise.”



7. From this official memo it is clear that obtaining such order by the DMO was not mandatory but 'ordinarily' his order should have been so obtained. As made clear in the note, this provision was made so that, keeping in view the illness and the provision of treatment in the district where the employee was working, if the DMO was of opinion that his treatment by a specialist outside the district was necessary, then he should grant the permission for treatment outside the district.

8. What defence appears to have been taken by the respondents is that since the officer who had referred the case to IGIMS, Patna was not himself competent to do that though he was a Sr. Medical Officer in the Dispensary of P&T Department, for his fault the applicant should be made to suffer. This is a peculiar argument placed before the tribunal by the respondents. If a wrong has been committed by an officer of the department, the superior officers are free to take action against him but a senior doctor, medically competent, after treating a patient is of the opinion that he should get treatment in a better hospital immediately and refers the patient to the Patna hospital, and on such recommendation if the applicant rushes <sup>g</sup> with her husband to Patna, the respondents can hardly be heard, only on the ground that the officer granting permission was not competent according to rules, to deny the medical reimbursement to the applicant for the cost incurred upon the treatment of her husband. It has been admitted in the written statement that late Ram Chandra Prasad was actually admitted in IGIMS, Patna for his treatment as per instructions of the Sr. Medical Officer I/c, P&T Dispensary  
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vice para 11 of the . Obviously his condition was quite serious, so

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much so that he expired in course of treatment. The applicant, attending upon her seriously ailing husband was hardly expected to find out what exactly the rules said, instead of rushing her husband, soon after the case was so referred, for better medical treatment.

9. Therefore, I find that the circular order, relied upon by the respondents, is not mandatory but 'ordinarily' applicable in the case of an employee requiring treatment outside the district, and in view of the fact that the applicant cannot be sought to be punished for a mistake that was committed by an officer of the respondents, I find that the order of rejection of medical reimbursement as at Annexure-4 is fit to be quashed, particularly in the circumstances of the case.

10. The order as contained in Annexure-A/4, dated 23.02.2006 is hereby quashed. The respondents are directed to examine the claim of the applicant for medical reimbursement, without taking into consideration that husband of the applicant was referred for outside treatment by the Sr. Medical Officer, P&T Dispensary, and on such consideration to allow the amount which is legally payable, to the applicant by way of medical reimbursement which should be done within three months of receipt of a copy of this order. If not paid within this period the amount of reimbursement would be payable with interest @ 8% p.a. to be counted from the date of expiry of the aforesaid period of three months, till the amount is paid.

Application, accordingly, stands disposed of. No costs.

  
[P.K.Sinha]/VC

skj.