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CENTRAL ADMINISTRATIVE TRIBUNAL

PATNA BENCH, PATNA

OA No.615 of 2005

Date of order : 3rd August, 2006

C O R A M

Hon'ble Mr. Justice P.K.Sinha, Vice-Chairman

Ashok Kumar Sah, son of Shri Jeewachh Sah, Ex-Sr. Section Engineer [S&T], E.C.Railway, Danapur, presently Chief Office Suptd., O/o Sr. D.P.O., E.C.Railway, Danapur, P.O.- Khagaul, District - Patna [Bihar].

Applicant.

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1. The Union of India through General Manager, E.C. Railway Hazipur.
2. Chief Personnel Officer, E.C.Railway, Hazipur.
3. Chief Medical Director, E.C.Railway, Hazipur.
4. Chief Medical Director, Eastern Railway, Kolkata.
5. Divisional Railway Manager, E.C.Railway, Danapur.
6. Sr. Divisional Personnel Officer, E.C. Railway, Danapur.
7. Chief Medical Suptd., E.C.Railway, Danapur.

Counsel for the applicant : Shri M.P.Dixit

Counsel for the respondents : Shri B.K.Sinha, ASC



ORDER [ORAL]

Justice P.K.Sinha, Vice-Chairman :-

Heard both sides. Certain facts are not disputed, which are as follows :-

[i] While on duty in the Railways, the applicant met an accident on 6.9.1999 and sustained serious injuries. From that date up to 10.9.1999, he was treated as indoor patient in Danapur Railway Hospital for his greivous injuries.

[ii] Because of his injuries by the competent authority, on 10.9.1999, he was referred to All India Institute of Medical Sciences, New Delhi

[iii] Instead of getting himself treated at All India Institute of Medical Sciences, New Delhi, the applicant got himself treated in Noida Medical Centre [for short NMC] and was under treatment there from 12.9.1999 to 20.10.1999.

2. The applicant ultimately submitted bill for reimbursement to the tune of Rs. 1,27,870/- . He also appears to have filed applications for according order in his favour.

3. By Annexure-A/9, a letter dated 18.8.2005 issued from the office of CMS, ECR, Danapur, the applicant was intimated that his claim had been

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rejected.

4. It is admitted that the claim was rejected by the Chief Medical Superintendent, E.C. Railway, Danapur.

5. On filing of this application, the respondents made appearance and filed their written statement from which it would appear that they have taken two grounds for rejection of the claim, firstly that the NMC was not a recognized centre by the Railway Board where the applicant had got himself treated as indoor patient instead of AIIMS, New Delhi where he was referred to. Secondly, ground has been taken that the bill has been submitted beyond a period of six months after cessation of the treatment hence could not be entertained under provisions of para 652 of Indian Railway Medical Manual, Vol. I.

6. A rejoinder to the written statement has been filed today, which relates to the second point, i.e., a bar of limitation, as per which the applicant on his return from Noida after receiving treatment was treated under Railway Hospital, Danapur till 22.1.2001 under Hurt on Duty [HOD]. The ld. counsel for the applicant submitted that thereafter he was medically decategorised, and given an alternative appointment in the personnel department, and on joining in the personnel department, the applicant submitted his claim on 30.1.2002.



7. The ld. counsel for the respondents, in so far as the delay is concerned, has referred to Rule 652 and submitted that even if he was treated as HOD till 21.2.2001, still the claim for reimbursement was submitted beyond six months.

7A. Rule 652 of IRMM Vol.I may be reproduced below :-

"All claims for reimbursement of medical charges should invariably be preferred within six months from the date of completion of treatment as shown in the essentiality certificate of the Authorised Medical Officer/Medical Officer concerned. A claim of reimbursement of medical charges not countersigned and not preferred within six months of the date of completion of treatment, should be subjected to investigation by the Accounts Officer, and where a special sanction is accorded on an application from the Railway employee for reimbursement of any charges in relaxation of the rules, that sanction will be deemed to be operative from the date of its issue and the period of six months for preferment of claim will count from that date."

8. It was submitted on behalf of the applicant that though this rule provides for limitation of a period of six months but it does not say that if the applicant's claim is not submitted within six months period, then the claimant would be debarred from reimbursement, but only states that if the claim is preferred beyond six months, the claim would be subjected to

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investigation by the Accounts Officer. It is submitted that this rule itself shows that a relaxation in this regard for reimbursement may also be given.

9. My attention is also drawn to Para 648 of IRMM Vol. I which runs as follows :-

“[i] Where in an emergency, a Railway employee has to go for treatment [including confinement] to a Government hospital or a recognised hospital or a dispensary run by a philanthropic organisation, without prior consultation with the Authorised Medical Officer, reimbursement of the expenses incurred to the extent otherwise admissible, will be permitted. In such a case, before reimbursement is admitted, it will be necessary to obtain, in addition to other documents prescribed, a certificate in the prescribed form as given in part C of certificate B of Annexure III to this Chapter from the Medical Superintendent of the hospital to the effect that the facilities provided were the minimum which were essential for the patient's treatment. In such cases, the General Managers are delegated with powers to allow :

[a] full reimbursement of medical expenses in case of Govt. hospitals and

[b] up to a limit of Rs.50,000/- in case of recognised hospitals and dispensaries run by philanthropic organisations. All cases above Rs.50,000/- should be referred to the Railway Board along with the proforma given in Annexure-Vi to this chapter, duly filling all the columns.

[2] In case, where the treatment had to be taken in private/non-

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recognised hospitals in emergent circumstances, without being referred by the Authorised Medical Officer, the General Managers are empowered to settle reimbursement claims up to Rs.30,000/- per case. I should be ensured that treatment taken in private hospitals by Railway men is reimbursed only in emergent cases and for the shortest and unavoidable spell of time. All claims above Rs.30,000/- should be referred to the Railway Board along with the duly filled in proforma given in Annexure VI to this chapter."

10. It was submitted that the officer who had rejected the claim of the applicant on whatsoever ground was not at all competent to do so as this claim, which was beyond the amount of Rs. 30,000/- had to be referred to the Railway Board who alone could have taken a decision whether or not to allow the reimbursement and if to allow, to what extent and that the matter relating to delay had also to be reconsidered by the Railway Board, but since in contravention of rule 648 aforesaid the matter has not been referred to the Railway Board, the order at Annexure-A/9 is incompetent.

11. A plain reading of this provision would show that the claim of the applicant should have been referred to the competent authority, the Railway Board which should have taken a decision upon the claim of reimbursement in accordance with the extant rules.

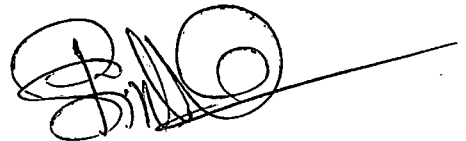
12. In the result, the order at Annexure-A/9 is set aside. The respondents



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are directed to refer the claim of the applicant, within one month from the date of receipt of a copy of this order, to the Railway Board with all papers, for their consideration. The Railway Board on receipt of the claim along with papers, should record an order thereupon at the earliest, preferably within a period of three months of the receipt of the claim with papers.

13. This application is, accordingly, disposed of. No costs.

A handwritten signature in black ink, consisting of stylized loops and a long horizontal stroke extending to the right.

[P.K.Sinha]
Vice-Chairman

mps.