

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Second Floor,
Commercial Complex,
Indiranagar,
Bangalore-560 038.

Dated: 6 SEP 1993

APPLICATION NO(s). 347 of 1993.

Applicant(S) Kanakappa Rangappa Kuri v/s Respondent(s) Senior Superinten-
dent, Telecom, Belgaum & Others.

To

1. Sri. Kanakappa Rangappa Kuri, Senior Superintendent, O(DTO), Departmental Telegraph Office, Bagalkot.
2. Sri. A.R. Radhakrishna, Advocate, No. 725, E.S.I. Road, Third Block, Rajajinagar, Bangalore-10.
3. Senior Superintendent, T.T. Division, O/D. Telecom, Belgaum-590001.
4. Accounts Officer (Cash), Office of the General Manager Telecom, Bangalore-9.
5. The Chief General Manager, Telecommunication, Karnataka Circle, Bangalore.
6. The Welfare Officer, Office of the Chief General Manager, Telecommunications, Karnataka Circle, Bangalore.
7. Assistant Superintende, D.T.O., Bagalkot.
8. Sri. G. Shanthappa, Additional Central Govt. Stng. Counsel, High Court Building, Bangalore-1.

SUBJECT:- Forwarding of copies of the Order passed by the Central Administrative Tribunal, Bangalore Bench Bangalore.

Please find enclosed herewith a copy of the ORDER/ STAY/INTERIM ORDER passed by this Tribunal in the above said application(s) on 04-08-93.

Issued

for *Mr. [Signature]*
DEPUTY REGISTRAR
JUDICIAL BRANCHES. *6/9/93*

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH :: BANGALORE

DATED THIS THE FOURTH DAY OF AUGUST, 1993

Present: Hon'ble Mr. Justice P.K. Shyamsunder, Vice Chairman.

APPLICATION NO.347/1993

Shri Kanakappa Rangappa Kuri
Senior Superintendent
O(D.T.O)
Departmental Telegraph Office
Bagalkot

... Applicant

(Shri A.R. Radhakrishna, Advocate)

vs.

1. Senior Superintendent
T.T. Division, D/O. Telecom
Belgaum - 590 001.

2. A.O. (Cash)
Officer of the G.M.T.
Telecommunications
Bangalore-560 009.

3. The Chief General Manager
Telecommunication
Karnataka Circle, Bangalore.

4. The Welfare Officer
Office of the Chief General Manager
Telecommunications, Karnataka Circle
Bangalore.

5. Assistant Superintendent
D.T.O., Bagalkot

... Respondents

(Shri G. Shantappa, Advocate)

This application having come up for hearing
before the Tribunal today, Hon'ble Mr. Justice P.K. Shyamsunder,
Vice Chairman, made the following:

O R D E R

Having heard Shri Radhakrishnan on behalf
of Shri Doddamani, learned counsel for the applicant and
Shri Shantappa, learned standing counsel for the respondents,
I find that this case is really much to do about nothing.



The applicant who is a permanent employee of the Telecom department was during the relevant period working at Bagalkot. It appears he was deputed for some training at Bangalore lasting for about 2 days in the month of April, 1990. But unfortunately, on the very day he landed at Bangalore, somebody knocked him down with the result he sustained one or two fractures of his leg and was immediately removed for treatment to St. Martha's Hospital, where he apparently knew no one and had also little money. He had to summon his wife, who shifted him back to Bagalkot for further treatment, for the obvious reason that to continue in Bangalore in those circumstances was something both of them found difficult. He says his wife is a village girl, who again did not know anyone in Bangalore and was as helpless as he was and therefore both of them decided to get back to Bagalkot. Immediately on reaching Bagalkot, they went to the General Hospital seeking treatment, but was told by no lesser a person than the Chief Medical Officer at that hospital that the treatment required by him had to be given by an Orthopaedic Surgeon but that hospital did not have the services of an Orthopaedic Surgeon. The doctor found the condition of the applicant was such that it was causing concern and therefore, he advised the applicant should be immediately taken for treatment by a competent doctor elsewhere. Under instructions of the doctor of the Government hospital referred to (supra), the applicant approached a local Orthopaedic Surgeon and took treatment which involved surgery and a continued stay as inpatient for 38 days as could be seen from the medical chart furnished by the Sorgavi Nursing Home run by Dr. Venkatesh R. Sorgavi, who appears to be a competent Orthopaedic Surgeon having acquired a post graduation in Ortho.

2. On discharge from Sorgavi Nursing Home, he went back to duty and preferred a claim for Rs 8,660/- towards reimbursement of the expenditure incurred on his treatment which was primarily turned down by the department on the ground that he had taken treatment at a private Nursing Home and not at the Government hospital. He was, therefore, advised to approach the Circle Welfare Fund for reimbursement of his medical expenses.

3. I am now told that the Circle Welfare Fund granted only Rs 2000/- towards reimbursement but the rest was denied. A further representation in this behalf made to the department had apparently fallen on deaf ears. The applicant is now before the Tribunal seeking a direction to be issued to the department for payment of the total expenditure incurred on his treatment amounting in all to Rs 8,660/-. I may in this connection refer to the certificate issued by the Bagalkot Govt. Hospital doctor advising the applicant to take treatment elsewhere, which reads as follows:

CERTIFICATE

In view of the nature and urgency of treatment of fracture the patient (Shri K.R. Kuri, Telegraph Assistant) was advised to approach local orthopaedic surgeon for necessary immediate treatment.

Bagalkot
13.4.1990

Sd/-
Chief Medical Officer
General Hospital
Bagalkot.

Notwithstanding the testimonial of the Government doctor, Bagalkot, the department blatantly refused to reimburse the expenditure incurred in regard to his treatment and the reason is:

Sub: Medical claim of Sri K.R.
Kuri, SS DTO, Bagalkot
Ref: Your lr. no. AP/6-9/106
dtd. 30.7.1991

With reference to your letter cited above, it is intimated that the

.....4/-



treatment has been obtained at Nursing Home and no reimbursement can be considered under relaxation rules.

However the official may be advised to approach Circle Welfare Fund for full reimbursement of the expenditures. The claim papers are returned herewith.

Sd/-
A.O.(CASH)
O/O.C.G.M. Telecom
Bangalore-560 009.

No.A-4/Med/KRK Dt. at Belgaum the 19.9.1991

Forwarded to the A.S.I.T. IC.DTO
Belgaum
for information and necessary action.

Senior Superintendent
T.T. Dn. Belgaum-590 001.

(Vide Annexure-A3)

Precise grievance is against the said Annexure-A3 declining to honour the bills produced by the applicant pertaining to treatment undertaken by him. I notice that the Government doctor himself (Vide A2 and A5) had advised the applicant to take treatment from a local Orthopaedic Surgeon as the services of an Orthopaedic Surgeon was not available at the Government Hospital. I do not see how the department could have blatantly turned down the claim for payment of actual expenditure incurred on his treatment by the applicant.

4. But I am told that there was something in these rules which enjoins such rejection. That rule has been produced along with the objection statement filed on behalf of the respondents which merely reiterates the stand that the applicant having taken treatment from a private Nursing Home, was not entitled for reimbursement of the expenditure incurred on that behalf. Mr. Shantappa, learned standing counsel read to me the rule in question, which is produced at Annexure-R1. In particular, he referred to Rule-1 which reads:

" In emergent cases/involving accidents, serious nature of diseases etc. the person/persons on the spot may use their discretion for taking the patient for treatment in a private hospital in case no Government or recognised hospital is available nearer than the private hospital. The controlling authority/department will decide on the merits of case whether it was a case of real emergency necessitating admission in a private Institution. If the controlling Authority/Department have any doubt they may make a reference to the Director General of Health Service for opinion. "

I see nothing in the aforesaid rule which enables denial of the claim because treatment is taken from a private hospital rather than from a Government hospital even where such treatment has been undertaken on the advice of the Government doctor. The rule referred to above clearly empowers taking treatment from a private hospital in cases of emergency, particularly, in the absence of a Government or recognised hospital being available ^{in the vicinity of} ~~nearer~~ the private hospital.

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5. In this case the applicant approached the Government hospital in the first instance and he was directed by the doctor at the Government hospital to take treatment from a private nursing home because the hospital did not have the services of an Orthopaedic Surgeon, who alone could treat the applicant as indicated by the certificate at Annexure-A2 and communication at Annexure-A5. No other doctor could possibly treat him and therefore, he was advised to take treatment from a Surgeon outside. The Government doctor himself had advised the applicant to take treatment from a private nursing home and on such instructions, that is what he did. There is no denial of the fact that whatever bills the Nursing home has raised in connection with his treatment has



been satisfied by him and now it is the turn of the Government to reimburse the applicant and to make good the money spent by him towards his treatment. I do not see anything in the rule referred to earlier that could possibly enjoin denial of a claim as made in the facts and circumstances of the case wherein under the advise of the Government doctor the applicant had preferred to take treatment from a competent Nursing Home. On the other hand the rule itself enjoins that treatment could be had outside the Government hospital if such facilities are not available in the Government or other recognised hospitals. It is, therefore, obvious there is nothing in the rule relied upon by the Government in opposition to the claim of reimbursement of medical expenses pointed above and to reiterate again treatment outside the Government hospital became in this case a necessity in view of the non-availability of any facility for treatment at the Government hospital. The applicant was injured and was in dire need of immediate treatment as could be seen from the Government doctor's communication at Annexure-A5. Having availed of appropriate treatment that possibly saves him and then he makes a claim for a small sum of Rs 8,665/- it seems to me that it is unbecoming for the Government to deny such paltry sum. We live in a welfare state where Government should put its best ^{she health} foot forward to take care of a citizen, particularly when the citizen happens to be a Government servant. It is the duty of the Government to arrange for an appropriate treatment when he is in need of medical assistance. At any rate it will be less than fair for the Government to deny reimbursement of a claim relating to medical treatment from a quarter other than a Government source in a case when the Government source itself had asked him to take treatment elsewhere.

6. I do not wish to say anything more. I rest content by allowing this application and quashing the endorsement

issued by the Government refusing to honour the bill raised by the applicant under Annexure-3 and direct the respondent department to pay in full the bills preferred by the applicant without raising any further objections. These directions should be complied within one month from the date of receipt of a copy of this order. Let a copy of this order be sent to the department for information and compliance.

7. Shri Shantappa, learned standing counsel points out that the applicant has already received Rs 2000/- towards his treatment and if that is so, the Government will pay only the balance.

8. I believe that there is some delay in filing the application. I see there are good reasons to condone the delay. The delay therefore is condoned and the application is treated as filed in time.



Sd-
(P.K. SHYAMSUNDER)
VICE CHAIRMAN

TRUE COPY

6/9/93
SECTION OFFICER
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE