

(7)

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No: 631 of 93

Transfer Application No:

DATE OF DECISION: 21/10/1994

Shri. V.K. Datar Petitioner

Shri. Ranganathan Advocate for the Petitioner

Versus

Union of India & Ors. Respondent

Shri. R.C. Kotiankar Advocate for the Respondent(s)

CORAM :

The Hon'ble Shri M.R. Kolhatkar, Member (A)

The Hon'ble Shri

1. To be referred to the Reporter or not ?
2. Whether it needs to be circulated to other Benches of the Tribunal ?

J*

M.R. Kolhatkar
(M.R. Kolhatkar)
Member (A)

(8)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

O.A. 631/93

Shri. V.K. Datar ... Applicant

Vs.

1. Union of India through
the Secretary
Ministry of Communications
New Delhi.
2. The Director General
Dept. of Telecommunications
New Delhi.
3. The Chief General Manager,
Mahanagar Telephone Nigam Ltd.
Bombay
4. The Deputy General Manager (P&A)
Mahanagar Telephone Nigam Ltd.,
Bombay. ... Respondents

CORAM : Hon'ble Shri.M.R.Kolhatkar, Member (A)

APPEARANCES

1. Shri. Ranganathan, counsel
for applicant
2. Shri. R.C. Kotiankar, counsel
for respondents

ORAL JUDGMENT

DATED : 21/10/1994

Χ Per. Shri. M.R. Kolhatkar, M(A) Χ

This O.A is under section 19 of the Administrative Tribunal's Act. The O.A arose out of an earlier judgment of this Tribunal in O.A. 426 of 86 decided on Annexure A(4) (p.p 29-36) 30/7/87 in which the position of the Rules, namely, Central Services (Medical Attendance) Rules, 1944 to the extent of their applicability to the present case has been fully explained. Under para 9 of the Order, the Tribunal made certain observations and recommended that the concerned authority should consider the feasibility or otherwise of including the Government Medical Officers

from the Government Hospitals as A.M.A., so that the government employees can as well go to them and there would not be any restriction that they should approach only the Private Practitioners. The Tribunal hoped that the concerned authority would apply its mind to this aspect and pass appropriate orders as expeditiously as possible. A copy of that order was sent to the Principal Accountant General (1), Maharashtra as he was the chairman of the Co-ordination Committee, to consider the question. In addition, the General Manager was also advised to consider exercising of powers under Rule 2(A) (iii). The main contention of the applicant is that in spite of detailed examination of rules consequent upon instructions given by the Tribunal and the circular dated 25.5.89 issued by the Central Government Employees' Welfare Co-ordination Committee, which was further circulated by MTNL under their endorsement dated 21.6.87 vide Annexure to rejoinder of applicant the respondents have not settled the applicant's claim in respect of his old bills, in particular, there is a claim relating to 15.6.86 for Rs.11.40 which was in respect of treatment availed of by the applicant from State Government Doctor, outside normal hospital hours. It is not disputed by the respondents that the said claim has been rejected as it pertained to treatment taken from a private medical practitioner. It has also been stated that a bill in respect of June 83 examination has also been under The applicant has also, through dt.25.3.94 rejoinder/pointed-out that two medical bills of Rs.86.90 and Rs.52.15 of the applicant totalling Rs.139.05 though passed for payment, have not been actually paid. (Letter dated 2.2.1987 enclosed with the rejoinder).

2. The counsel for respondents states that the since the issue pertains to implementation of application is time-barred and the observations of the Tribunal in relation to action to be taken by the Chairman

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Central Government Employees Welfare Co-ordination Committee, the Chairman of C.G.E.W.C.O ought to have been made a party. He also contends that the circular dated 25.5.1989 issued by the CGEWCC is ultra-vires not being in accordance with CS(MA) Rules, 1944, in particular he states that the respondents are covered under Rule 2(a) (A) hence cannot operate Rule 2(a) (B).

3. We have considered the pleadings and the arguments. So far as the interpretation of Rule 2(a) (A) is concerned the same has been done comprehensively by the Tribunal in the order relating to CA 426/86. The contention of the counsel for the respondents that the circular is ultra-vires has no substance in view of the discussion which is contained in that order. In any case if the respondents think that the circular dated 25.5.89 is against the rules, it is open to them to take appropriate action by approaching the Chairman of Central Government Employees' Co-ordinating Committee, or as a last resort approaching the concerned Ministry for administrative purposes, viz. Health Ministry.

4. The next question therefore, is whether the pending claim of the applicant can be decided by the respondents in accordance with the circular dated 25.5.1989. It has been argued by the counsel for the applicant that the circular does not imply issue of new instructions but only clarifications on certain points which were not clear, in particular, has ^{been} stated ^{the} in last para that the Government Doctors mentioned in para 2(a) (B) of Medical Attendance Rules continue to be authorised medical attendants in addition to the AMAs appointed from among Private Registered Medical Practitioners. Therefore, Circular the only elucidates the position which is otherwise

clear from the plain reading of the Rules.

5. Since we notice from the pleadings that the applicant has been vigilant in pursuing the matter with the Department as well as the Central Government Employees Welfare Co-ordinating Committee, in terms of this Tribunal's judgment, the point about claim in relation to the medical bills being time-barred is rejected. We dispose of this O.A by passing the following order :

ORDER

Respondents are directed to make payment of the bill amounting to Rs.8.40 in respect of treatment taken on 15.6.1986 from the State Hospital Doctor, it should be reimbursed to the applicant within a fortnight of communication of this Order. The bill for Rs.139.05 referred to in letter dated 2.2.87, if still not paid though passed, should also be paid within a fortnight. Similarly bill in respect of June 1983 should also be disposed of as per rules as elucidated by the circular dated 25.5.89 issued by the Central Government Employees Welfare Co-ordinating Committee. The claim of the applicant for interest on these claims is rejected. No order as to costs.

M.R. Kolhatkar

(M.R. KOLHATKAR)
MEMBER (A)