

CENTRAL ADMINISTRATIVE TRIBUNAL
BENCH AT MUMBAI

ORIGINAL APPLICATION NO. 1396/94 /199

Date of Decision: 05-09-96

M.D.Poredi

Petitioner/s

Shri Suresh Kumar for Shri V.M.Bendre

Advocate for the
Petitioner/s

V/s.

U.C.I. & Ors.

Respondent/s

Ravi Shetty for Mr.R.K.Shetty

Advocate for the
Respondent/s

CORAM:

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

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 ?

M.R.Kolhatkar

(M.R.KOLHATKAR)
Member(A)

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

O.A. 1396/94

Prerna, the the 5th day of September 1996.

CORAM: HON'BLE SHRI M.R.KOLHATKAR, MEMBER(A)

M.D. Poredi,
Senior Auditor,
O/O Controller of Defence Accounts,
Southern Command,
Pune - 1.

(By Advocate Shri Suresh Kumar for
Shri V.M.Bendre)

.. Applicant

-versus-

1. Union of India,
Secretary,
Ministry of Defence,
Sena Bhavan,
R.K.Puram, North Block,
New Delhi - 110 066.
2. Controller General of
Defence Accounts,
Office of C.G.D.A.
West Block-4, R.K.Puram,
New Delhi - 110 066.
3. Controller of Defence Accounts,
Southern Command through
Group Officer,
Administration Section,
Pune - 1.

(By Advocate Shri Ravi Shetty for Mr.R.K. ... Respondents
Shetty)

ORDER

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

In this O.A. the applicant states that he had undergone surgical treatment for heart condition in N.M.Wadia ^{sometime in Dec.1989} Institute of Cardiology, Sasson Road, Pune and incurred an expenditure of Rs.66,000/- as against which he was given reimbursement of Rs.35,000/-. By letter dt. 23-2-94 at Annexure-1, he was informed that the claim has been restricted to Rs.35,000/- as intimated by the Chest Hospital Aundh Camp, Pune. By letter dt. 20-4-94 he was informed that

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he was given a personal hearing and was made aware of the rules. In otherwords his appeal for enhancement of reimbursement was rejected. The main contention of the applicant is that not only is the amount paid to him less than the amount incurred by him inspite of the fact that N.M.Wadia Institute of Cardiology is a Govt. Hospital and therefore full reimbursement has to be made but there has been a discriminatory treatment meted out to him because some other employees who underwent similar operation have been paid much more than Rs.35,000/- He has therefore sought the relief of directing the respondents to make full reimbursement of Rs.66,000/- along with interest. Incidentally, O.A. is not worded very clearly.

2. The respondents have opposed the O.A. They have stated that the reimbursement has been made as per the rules viz. a sum of Rs.23,000/- as package deal vide order dt. 7-8-87 and Rs.15,000/- as a provisional payment making a total of Rs.38,000/- The respondents rely on the circular dt. 17th October,1988 from the Ministry of Health and Family Welfare. This states as below :

"It has now been decided by this Ministry that the claims for reimbursement of charges of treatment/examinations etc. for which corresponding rates are not available in the nearest Govt. hospitals for regulating such claims may be reimbursed without referring them to this Ministry Dte.GHS by the concerned Ministries/ Deptts by (a) restricting such claims to the rates of Govt. hospitals in the concerned State, and (b) where such rates/facilities are not available in the concerned state full reimbursement of such charges may be made, provided the Director of Health Services of the [redacted] 3/-

concerned state certifies to that effect."

The respondents submit that the hospital in which treatment was availed of by the applicant is not a Govt. Hospital and therefore the Govt. was required to ascertain the allowable expenditure from the nearest hospital where such facility is available and that hospital being Aundh Chest Hospital and the Aundh Chest Hospital having certified the amount as Rs.35,000/- therefore the applicant was paid all the amount certified by the Aundh Chest Hospital which was even in excess of the package deal. Respondents have denied any discrimination has been practised against the applicant. Respondents submit that the applicant is relying on rates for by pass surgery prescribed by the Govt. by their subsequent circular dt. 20th July, 1994 but this circular has no bearing on the case which pertains to 1980 and therefore the O.A. of the applicant is liable to be dismissed.

3. My attention was drawn to the definition of term Govt. Hospital vide Rule 2(d) of the Medical Attendance Rules. :

"Government Hospital" includes a departmental dispensary full-time or part-time established and run by a department of the Government for the medical attendance and treatment of a class or classes of Government servants and members of their families, a hospital maintained by a local authority and any other hospital with which arrangements have been made by the Government for the treatment of Government servants."

In relation of Pune it has been pointed out that on page 129 of the Swamy's Compilation of Medical Attendance Rules

N.M.Wadia Hospital has been shown with the following remarks:

"It has been decided to recognise the N.M. Wadia Hospital, Pune, for the purposes of treatment of Central Government servants and members of their families under Rule 2(d) of CS (MA) Rules, 1944, in regard to both ordinary and emergent cases. The recognition is subject to the condition that the hospital levy charges in respect of Central Government servants and members of their families receiving treatment both in regard to ordinary and emergent cases at rates which are prevalent at the KEM Hospital, Pune which is a recognised institution under the CS(MA)Rules, 1944"

It would be seen that recognition to the N.M.Wadia Hospital is subject to the condition that the rates in respect of central government employees would be at rates prevalent in KEM Hospital, Pune. Now it appears that KEM Hospital by their letter dt. 27-7-1990, which was produced at the time of hearing and which is addressed to The Controller of Defence Accounts, Southern Command, Poona had stated that this Hospital does not have the facility of treatment of heart surgery and also schedule of charges does not contain rates for such surgeries. It is because of this that the respondents appear to have made a reference to the Aundh Chest Hospital. The counsel for the applicant relies on the Supreme Court judgment in Surjit Singh vs. State of Punjab and others, JT 1996(2)SC 28. In that case in the facts and circumstance the Supreme Court had directed that when the applicant had

Escorts Hospital to gone to save his life it is fair and just that the respondents pay to the appellant the rates admissible Hospital. as per Escorts. This direction was in view of the fact that Escorts Hospital is duly recognised by the State Govt. for open heart surgery apart from other Hospitals recognised by Punjab Govt, since the applicant in that case was a Punjab State Govt. employee. It appears to me that ratio of Surjit Singh's case squarely applies to the facts of the instant case. N. M. Wadia is not a Govt. hospital but it is as a recognised hospital for the purpose of treatment of central Govt. employees as noted by me. The condition that reimbursement should be at the rate prevailing at KEM Hospital is impossible of fulfillment because KEM Hospital does not have the facility. Under such circumstances applicant is entitled to the reimbursement of expenditure incurred by him in a Govt. recognised hospital viz. N.M.Wadia Hospital. I therefore direct that the applicant should be reimbursed the difference between Rs.35,000/- and Rs.66,000/- the expenditure ~~already~~ actually incurred by him at N.M.Wadia Hospital. In the facts and circumstance of the case, I am not inclined to award ~~cost~~. However, the respondents are directed to make the payment of difference within three months of the communication of the order and if they fail to make the payment they will be liable to pay interest @ 10% after expiry of three months.

There will be no order as to costs.

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