

CENTRAL ADMINISTRATIVE TRIBUNAL
BENCH AT MUMBAI

ORIGINAL APPLICATION NO. 784/98

Date of Decision: 11/2/99

Shri S. Srinivasa Murthy Petitioner/s

in person Advocate for the
Petitioner/s.

v/s.

Union of India & 40rs. Respondent/s

Shri V. S. Masurkar Advocate for the
Respondent/s

CORAM:

Hon'ble Shri Justice R.G.Vaidyanatha, Vice Chairman.

Hon'ble Shri

(1) to be referred to the Reporter or not? NO

(2) Whether it needs to be circulated to NO
other Benches of the Tribunal?

abp.

R.G. Vaidyanatha
(R.G. VAIDYANATHA)
VICE CHAIRMAN

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

GULE STAN BLDG. NO. 6, 4TH FLR, PRESCOT RD, FORT,

MUMBAI - 400 001.

ORIGINAL APPLICATION NO. 784/98.

DATED THE 11TH DAY OF FEBRUARY, 1999.

CORAM: Hon'ble Shri Justice R.G.Vaidyanatha, Vice Chairman.

Shri S.Srinivasa Murthy,
working as Divisional Engineer,
Mahanagar Telephone Nigam Ltd.,
3rd Floor, Marol, Telephone Exchange,
MIDC, Andheri(E),
Mumbai - 400 093.

... Applicant.

and residing at

QR 9/TYPE IV, Telecom Quarters,
C.T.O.Compound, Juhu Road,
Santacruz(West),
Mumbai - 400 054.

V/s.

1. Union of India,
thru the Secretary, DOT &
Ex-Officio Chairman,
Telecom Commission,
New Delhi-110 001.

2. Chief General Manager,
M.T.N.L., Telephone House,
Mumbai - 400 028.

3. General Manager(Finance),
MTNL, Telephone House,
Mumbai - 400 028.

4. Chief Accounts Officer(T),
M.T.N.L., 5th Floor,
Telephone House,
Mumbai-400 028.

5. Accounts Officer(CT),
M.T.N.L., 5th Floor,
Telephone House,
Mumbai - 400 028.

... Respondents.

By Advocate Shri V.S.Masurkar

I O R D E R

[Per Shri R.G.Vaidyanatha, Vice Chairman]

This is an application filed by applicant claiming direction to respondents regarding reimbursement of medical expenses and for other consequential reliefs. Respondents have filed reply opposing application.

I have heard the applicant who appeared in person and Shri V.S.Masurkar, learned counsel for respondents. I



have also perused the concerned files shown by learned counsel for respondents.

2. The applicant is working as Divisional Engineer in the Mahanagar Telephone Nigam Ltd at Bombay. His wife is suffering from renal failure/for which she has to take continuous treatment. She has been taking treatment in Dr.Nanavati Hospital in Bombay. For the period from August,97 to July,98 the applicant had submitted bills of the value of Rs.1,17,492.35. It is alleged that the respondents have not made full payment for these bills but they have paid amount partially and disallowed part of the claim. He has also objected to number of deductions made by the respondents. He made number of representations to the respondents but in vain. But the respondents were bound to clear all the bills as per rules. Applicant's wife will have to undergo ~~xxx~~ Dialysis weekly twice for the rest of her life. There is no such facility provided in Government Hospital. Therefore the applicant is compelled to take her to recognised private hospitals which includes Dr.Nanavati Hospital. The applicant therefore wants a direction to the respondents to pay the full value of all the 13 bills submitted which is the subject matter of the present application. He wants a direction to respondents to pay interest at 18% per annum from the date of the bill till the date of settlement of the bill. He also wants action against respondent Nos.3 to 5.

3. Respondents in their reply ^{W.C.} have justified making certain deductions in the bills which were not permissible under the rules. They have given details of the amount claimed and the amount sanctioned in respect of 13 bills in para-9 of the written statement. They have stated that all the deductions were made as permissible under the rules and as per the CGHS scheme rate. That the applicant is not entitled to any of the reliefs. It is also stated that application is not maintainable and liable to be dismissed.

hj

4. One of the main dispute between the parties is about the reimbursement for the amount spent for Haemodialysis. The applicant has claimed as per hospital bills Rs.825/- but the respondents have allowed only Rs.400/-. The respondents have justified this sanction of Rs.400/- for Haemodialysis as per CGHS rates in item No.5.8.1. As per this rule, such action of respondents in sanctioning Rs.400/- was justified. However, the applicant brings to my notice that subsequently, the Government itself has issued clarifications recently as per letter dated 1/1/99 where the amount to be paid is Rs.725/- per Haemodialysis which includes Med. & charges. The applicant admits that he has received all the arrears upto October,98 including the disputed 13 bills. Therefore the department allowed only Rs.400/- for Haemodialysis, now it is admitted that the applicant has been paid @ Rs.725/- per Haemodialysis. Infact this is one of the major item of the bills of the applicant.

But, however, the applicant claims that ~~xxxxxx~~, though the Government has fixed Rs.725/- per Haemodialysis, it is further mentioned ~~xxx~~ in the letter dated 1/1/99 that even the amount actually spent for the medicines over and above Rs.725/- should also be reimbursed. It is clearly mentioned in the letter dated 1/1/99 that expenses over and above the quoted charges of Rs.725/- is also reimbursable subject to it pertains to Med. & Mate, actually utilised during the procedure and the same has ~~h~~ly been certified by the treating Nephrologist of the concerned hospital and endorsed by the competent hospital authority. It is open to the applicant whenever he makes claim, to produce the certificate of the treating Nephrologist of the concerned hospital/authority, if such a claim is made, the department will have to allow the claim subject to the certificate given by the Doctor.

fly

5. As already stated the dispute regarding the amount of Haemodialysis was a major item and now that the applicant has received Rs.725/- per bill and he is also entitled to amount in excess of Rs.725/- as mentioned in letter dated 1/1/99.

As far as other items are concerned, most of them are small items and the respondents have sanctioned the amount as per the CGHS rate. I have gone through the rate list now produced before me. I find that substantially the amount sanctioned is as per rules.

The applicant pointed out that "Haemodialysis set" claim in the bill dated 26/8/97, he had claimed Rs.1900/- but the respondents have sanctioned only Rs.400/-. The learned counsel for respondent brought to my notice the concerned file. Respondents have treated this claim as Haemodialysis and sanctioned Rs.400/- as against the claim for Rs.1900/-. The applicant has now received the enhanced rate of Rs.725/-. But the applicant's claim is that claim for this item comes under 5.2.9 in the CGHS rate scheme.

A perusal of 5.2.9 shows that it pertains to "Double Lumen Sub CLAVIAN CATHETER" and the amount shown is Rs.2000/-. But the bill produced by applicant shows it as "Haemodialysis set". It is not possible for me to say whether "Haemodialysis set" pertains to above description given in 5.2.9. It is open to the applicant to get a proper certificate from the concerned Nephrologist and submit a fresh bill to the respondents and if he satisfies that the claim comes under 5.2.9 then the respondents may settle the same as per rules after consulting CGHS, Mumbai.

6. Another point of controversy is about applicant claiming Rs.1000/- for routine scan of abdomen but the department has allowed only Rs.400/-. The respondents counsel brought to my notice that it is covered by 10.3.2

hj

where the amount allowed is Rs. 400/-. But the applicant says that the test was not only in respect of abdomen, but also in respect of pelvis. The applicant should ~~not~~ ^{show that the} produce necessary certificate from the Doctor ~~to~~ ^{of} the particular test ~~not~~ was in respect of scan of both abdomen and pelvis and make a representation to respondents and then respondents may consider the same and pass the bill as per rules after consulting CGHS.

Except some disputed items mentioned above all other items are substantially correct as per rules.

7. The prayer of applicant asking for interest is wholly unwarranted. The respondents are duty bound to check all the bills and find out whether they are correct or not as compared to rules and since it is a matter dealing with public funds, the Officer will have to be careful for scrutinising and passing the bills; merely because there is some delay in passing bills, the applicant cannot make allegations against Officers. There is no personal enmity or hostility between applicant and officers. Even, if the respondents have deducted certain amount, the applicant need not make any allegation against Officers. Similarly, the applicant's claim for interest is also unwarranted. Government is granting amount for reimbursement as a model employer. The very payment itself is concessional; therefore claiming interest for such concessional payment is not warranted. Therefore, the claim is rejected.

8. In the result, the application is disposed of subject to above observations. The applicant may claim whatever amount is due by making proper representations and producing necessary certificates from Doctors and Hospital concerned. No orders as to costs.

abp.

R.G. Vaidyanatha
(R.G. VAIDYANATHA)
VICE CHAIRMAN

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GULE STAN BLEG. NO. 6, 4th FLR, PRESCOT RD.,

FORT, MUMBAI - 400 001.

REVIEW PETITION NO. 18/99 in O.A. No. 784/98.

DATED THE 1st DAY OF APRIL, 1999.

CORAM: Hon'ble Shri Justice R.G. Vaidyanatha, Vice Chairman.
S. Srinivasa Murthy

v/s.

Union of India & Ors.

I ORDER BY CIRCULATION X

I Per Shri R.G. Vaidyanatha, Vice Chairman X

This is a review petition filed by applicant against order dated 11/2/99 passed by me in OA-784/98. I have perused the contents of the review petition and the entire case.

2. Applicant had filed original application claiming reimbursement of medical expenses in view of some objections raised by the respondents regarding certain items. After hearing the applicant who appeared in person and the counsel for administration, the OA was partly allowed by giving certain directions.

Now the applicant has filed the present review petition that this Tribunal has not taken into consideration the circular dated 18/3/92. In my order I have referred to the relevant rules and have given certain directions. There is no apparent error on record. No ground made out within the meaning of order 47, rule-1 CPC for reviewing my order dated 11/2/99. Therefore, I do not find any merit in the review petition.

3. However, one of the grounds made out in the review petition is that the order dated 11/2/99 may come in the way of the applicant while claiming any benefit in future for future investigation charges which are permissible under the circular dated 18/3/92.

I only say that this question is left open. If and when future investigations are done, and investigation charges are claimed and if according to the applicant the charges can be claimed under the circular dated 18/3/92, he may prefer the claim by giving reasons and it is for the administration to consider ~~his~~ case on merits and according to law.

4. In the result, the review petition is rejected on circulation.

Repaired 17/4/97
(R.G. VAIDYANATHA)
VICE CHAIRMAN

abp.

DT: 1-4-99
Order/Judgement despatched
to Applicant/Respondent(s)
on 9/4/99
12/4

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI.

Contempt Petition No. 29/2000 in
ORIGINAL APPLICATION NO.: 784/98

Date of Decision : 22.11.2000

S.S.Murthy _____ Applicant.

Advocate for the
Applicant.

VERSUS

Union of India & Ors. _____ Respondents.

Shri V.S.Masurkar _____ Advocate for the
Respondents.

CORAM :

The Hon'ble Shri B.S.Jai Parameshwar, Member (J)

The Hon'ble Smt. Shanta Shastry, Member (A)

(i) To be referred to the Reporter or not ?

(ii) Whether it needs to be circulated to other
Benches of the Tribunal ?

(iii) Library


22.11.00
(B.S.Jai Parameshwar)
MEMBER (J)

mrj*

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH, MUMBAI

C.P.No.29/2000 in OA.NO.784/98.

Wednesday this the 22nd day of November,2000.

CORAM : Hon'ble Shri B.S.Jai Parameshwar, Member (J)

Hon'ble Smt.Shanta Shastry, Member (A)

S.Srinivasa Murthy,
Divisional Engineer,DLL-3,
Mahanagar Telephone Nigam Limited,
2nd Floor, Currey Road Telephone
Exchange, Mumbai.

... Applicant

V/S.

Union of India
represented by
Shri P.S.Saran,
Secretary,
Department of Telecom Service,
New Delhi & Ors.

... Respondents

By Advocate Shri V.S.Masurkar

O R D E R (ORAL)

{Per : Shri B.S.Jai Parameshwar, Member (J)}

This matter came up for hearing in the morning session. As the applicant was appearing in person, we felt it proper to give him an opportunity. Accordingly, we adjourned the matter. When we took up the matter at 3.35 p.m., the applicant was absent.

2

..2/-

2. Heard Shri V.S.Masurkar, Learned Standing Counsel for the respondents.

3. The applicant has filed this application to proceed against the respondents for non compliance of the order dated 11.2.1999 passed in the OA. The final directions issued in the OA. read as under :-

" 7. The prayer of applicant asking for interest is wholly unwarranted. The respondents are duty bound to check all the bills and find out whether they are correct or not as compared to rules and since it is a matter dealing with public funds, the officer will have to be careful for scrutinising and passing the bills, merely because there is some delay in passing bills, the applicant cannot make allegations against Officers. There is no personal enmity or hostility between applicant and officers. Even, if the respondents have deducted certain amount, the applicant need not make any allegation against Officers. Similarly, the applicant's claim for interest is also unwarranted. Government is granting amount for reimbursement as a model employer. The very payment itself is concessional, therefore, claiming interest for such concessional payment is not warranted. Therefore, the claim is rejected.

8. In the result, the application is disposed of subject to above observations. The applicant may claim whatever amount is due by making proper representations and producing necessary certificates from Doctors and Hospital concerned. No order as to costs."

4. As per the directions given in the OA., the applicant made representation for reimbursement of medical expenses.

D

5. The applicant feels aggrieved in not reimbursing the amount spent for these items :-

1. Difference pertaining to routine scan Rs. 600.00 (July'99)
2. Other Investigation Charges Rs.1020.00 (July'97)
to Mar'99)
3. Blood Transfusion Charges Rs.1400.00 (Sept.'98)
4. Doctor's charges during Hospitali- Rs.1980.00 (July'97)
sation.

6. The respondents have filed the reply. They submit that reimbursements have been paid to the applicant as per O.M.dated 11.7.1997. Further, they submit that Blood Transfusion charges was claimed on the basis of certificate dated 30.3.1999 and the same was not received by them. They submit that the said certificate was brought on record for the first time and the same is still not submitted by the applicant to the authorities. However, during the course of hearing, the learned counsel for the respondents conceded that the respondents would reimburse the Blood Transfusion charges provided the applicant gives the original certificate.

7. The respondents submit that they have paid scanning charges. The learned counsel for the respondents submits that the amount spent by the applicant for scanning charges has been reimbursed in accordance with the rules and that any claim made

D

by him is in excess of permissible limit. Thus, he submits that the applicant is not entitled for Doctor's charges during hospitalisation. The respondents submit that the applicant has been paid the said charges also.

8. Thus, the respondents submit that there is no substance in the C.P.

9. We feel since the applicant is appearing in person and he is absent, if he has any grievance regarding reimbursement of medical expenses spent by him, he may approach the proper authority and on such approach the respondents shall explain the provisions of the rules and decide ^{the} claim. The applicant shall not be compelled to approach this forum again.

10. With the above observations, the C.P. is discharged.

Shanta
(SMT. SHANTA SHAstry)

MEMBER (A)

B.S.J
22.11.2000
(B.S.JAI PARAMESHWAR)

MEMBER (J)

mrj.