

CENTRAL ADMINISTRATIVE TRIBUNAL
BENCH AT MUMBAI

ORIGINAL APPLICATION NO. 796/98

Date of Decision: 14.1.1999

Shri R.R. Dhabale Petitioner/s

Shri S.P. Saxena. Advocate for the
petitioner/s.

v/s.

Union of India and others Respondent/s

Shri R.R. Shetty for Advocate for the
Shri R.K. Shetty. Respondent/s

CORAM:

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

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?

R.G. Vaidyanatha
(R.G. Vaidyanatha)
Vice Chairman

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH 'GULESTAN' BUILDING NO:6
PRESCOT ROAD, BOMBAY:1

Original Application No. 796/98

Thursday the 14th day of January 1999.

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

R.R. Dhabale
residing at
Plot No.23,
Lake View Co.op.
Housing Society
Sukhsagar Nagar
Katrav,
Pune.

... Applicant.

By Advocate Shri S.P. Saxena.

V/s.

Union of India
Through the Secretary
Ministry of Defence
DHQ P.O. New Delhi

The Commandant
National Defence Academy
Khadakwasla, Pune.

The Controller of
Defence Accounts (S.C.)
Pune.

The Secretary
Ministry of Health and
Family Welfare
New Delhi.

... Respondents.

By Advocate Shri R.R. Shetty for Shri R.K. Shetty.

O R D E R (ORAL)

¶ Per Shri Justice R.G.Vaidyanatha, Vice Chairman ¶

This is an application claiming reimbursement of medical expenses. The respondents have filed reply. I have heard the learned counsel for both sides.

2. The applicant is working as Assistant Artist in the National Defence Academy, Khadakwasla Pune. The applicant's wife has undergone eye operation of one eye in 1995. For which the applicant gave a medical bill of Rs. 5,252/- for reimbursement. The respondents have passed that bill only to the extent of Rs. 2347/- and paid the

amount to the applicant. It is also stated that applicant's wife's one eye was operated in Sanjivan Hospital at Pune, which is recognised by the Government of India. It is further stated that applicant's wife has undergone cataract operation for the second eye in 1998. The applicant gave medical bill for Rs. 6253/- claiming reimbursement. The respondents have not granted this amount on the ground that the hospital is not recognised under the C.S.(M.A.) Rules. It is also stated that the said hospital is run by Public Charitable Trust. According to the applicant the said hospital has been recognised by both CGHS and CS(MA) Rules. Now the respondents made oral demand for refund of Rs. 2347/- which has already been paid for first medical bill pertaining to the operation of applicant's wife's one eye. According to the applicant he is entitled to reimbursement for operation of both the eyes. The applicant has approached this Tribunal for a direction to the respondents to pass the second medical bill of Rs. 6253/- and also wants a direction that the respondents should not make any recovery in respect of the amount already paid to the applicant in respect of applicant's first bill of 1995-96

3. The respondents in their reply have taken a stand that the hospital in question is not recognised by CS(MA) Rules. Therefore the applicant is not entitled to reimbursement of both the bills. By mistake or over sight the department had made payment in respect of first bill which is now to be recovered, since the applicant is not entitled to reimbursement of even the first bill. It is also stated that even though the hospital may be recognised by CGHS, the applicant is not governed by CGHS, but the applicant is governed by CS(MA) rules. Therefore the applicant cannot claim reimbursement of the expenses incurred

in the hospital which is not recognised by CS(MA) Rules. Hence it is stated that the applicant is not entitled to any of the relief.

4. The short point for consideration is whether the applicant is entitled to reimbursement of medical expenses incurred in respect of his wife as per two bills submitted by him.

5. It is not disputed that the hospital in question is recommended by CGHS. But there is nothing on record to show that the hospital is recommended under CS(MA) rules. It is also not disputed that the applicant is governed only by CS(MA) Rules and not by CGHS Rules. It is brought to my notice that both the rules CGHS and CS(MA) are notified by the Government of India. They are controlled by the Ministry of Health. It is also submitted that there is a common committee for recommendation of hospital under CGHS rules and CS(MA) rules. Technically the respondents may be correct that some particular hospitals ^{have} ~~have not been~~ ^{been} ~~approved~~ by CS(MA) Rules.

6. As already stated this is not a case of purely private hospital not recommended by the Government of India. Here admittedly the hospital in question is recommended by the Government of India ^{under} ~~under~~ but only under a particular rule and not under the particular rule under which the applicant can claim medical reimbursement. It is also seen that this hospital is run by Public Charitable Trust, ^{and} ~~and~~ ^{and} ~~approved~~ by the Government of India under CGHS Rules. Further in 1995 applicant's wife's one eye had been operated for cataract. The applicant has submitted the bill and the department had passed that bill to the extent permissible under rules. The applicant thought

that he is entitled to reimbursement for undergoing treatment in the said hospital and his wife has been operated for the second eye in the same hospital. When he submitted the bill the department has taken a stand that the said hospital is not recognised by the CS(MA) Rules. In the earlier occasion it is stated that the department had made a mistake in sanctioning the first bill of 1995. In the facts and circumstances of the case it is not possible to accept the respondents stand that the official took the treatment in an hospital which was not recognised by the CS(MA) rules. The respondents cannot deny the payment to the applicant on a technical ground.

7. As far as the demand of the respondents that the applicant should refund even the earlier payment received by him, no order passed by the respondents has been produced for such recovery. It appears that some of the officials of the department made oral demand and apprehending recovery the applicant has rushed to the Tribunal. The payment was made in 1995 and four years have lapsed. We have also seen that the hospital is recognised by Government of India under CGHS Rules. It is now too late for the respondents to claim the refund of the amount which was paid long back. Therefore in the circumstances we hold that the respondents should be restrained to make any demand in respect of the payment made in respect of the first bill of 1995. Since I am accepting the claim of the applicant in the peculiar facts and circumstances of the case, this order should not be treated as precedent in any future case.

8. In the result the application is allowed as follows:

1. The respondents are directed to accept the medical bill of the applicant for Rs. 6253/- in respect of the operation of the second eye of the applicant's wife. The respondents to pass the bill for such amount as admissible under rules.
2. The respondents are restrained from taking any action for recovery of the amount paid to the applicant in respect of the operation of the first eye of the applicant's wife in 1995.
3. The respondents are directed to comply with the order within a period of two months from the date of receipt of this order.
4. In the circumstances of the case there will be no order as to costs.

R. G. Vaidyanatha
(R.G. Vaidyanatha)
Vice Chairman