

(93)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH
AT HYDERABAD.

Between O.A.NO.340 of 1995. Dated: 1.8.1995.
D.Veeraswamy ... Applicant

And

1. The Senior Superintendent of Post Offices, Chittoor Division
Chittoor.
2. The Post Master General, A.P.Southern Region, Ashoknagar,
Kurnool.

... Respondents

Counsel for the Applicant : Sri. Krishna Devan

Counsel for the Respondents : Sri. N.V.Raghava Reddy, ADDL.
CGSC.

CORAM:

Hon'ble Mr. A.B.Gorthi, Administrative Member

Contd:...2/-

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O.A.No.340/95

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Date of Order: 1.8.95

X As per Hon'ble Shri A.B.Gorthi, Member (Admn.) X

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The claim of the applicant is for a direction to the respondents to sanction reimbursement of medical expenses incurred for his treatment in C.M.C. Hospital, Vellore.

2. The applicant was working as Selection Grade-II Postal Assistant in the Post Office at Chittoor. On 15.9.92 he suddenly developed chest pain and fell unconscious. He was immediately taken to the Government Hospital at Chittoor, but no heart specialist was available at that time. On that day Bharat Bandh was being observed and no transport was plying on the streets. Consequently, the applicant was shifted in an Ambulance of the Government Hospital, Chittoor to the Christian Medical College Hospital, Vellore which is the nearest recognized hospital. He was admitted to C.M.C. Hospital, Vellore and was given necessary treatment before he was discharged on 29.9.92.

3. The applicant submitted his claim for reimbursement of expenses incurred by him for his treatment at C.M.C. Hospital, Vellore. The respondents however rejected the claim of the applicant.

4. The respondents in their reply affidavit stated that the applicant underwent treatment at C.M.C. Hospital, Vellore from 15.9.92 to 25.9.92 and preferred a claim for reimbursement of medical expenses to the extent of Rs. 4,847-17 ps. According to the respondents

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the claim was rejected for the reason that the applicant did not comply with the conditions stipulated in Government of India, Ministry of Home O.M.No.F.33-4/59-H.I., dated 18/29-7-1960, which is to the following effect:-

"Conditions for treatment in hospitals outside District/State:- It has been decided that Central Government servants and members of their families may receive treatment for all diseases (other than TB, Cancer, Polio and Mental diseases for which separate orders exists) for which treatment is provided under the rules, in a Government/recognized hospital outside the District/State but within India, provided-

- (i) necessary and suitable facilities for treatment are not available in a Government or recognized hospital at the District or State Headquarters or within the District or State where one falls ill; and
- (ii) the treatment outside the District/State is recommended by the authorized Medical Attendant and countersigned by the Chief Medical Officer of the District if the treatment to be undertaken outside the District or by the Chief Administrative Medical Officer of the State if it is to be undertaken outside the State".

5. The respondents' contention is that the case of the applicant was not recommended for treatment at CMC Hospital, Vellore by the authorized medical attendant of Chittoor and that the applicant was shifted to Vellore by his relatives without obtaining the prior permission of controlling authority.

6. Respondents' explanation does not seem to be satisfactory. Appendix 8 to the Medical Attendance Rules (Swamy's Compilation 1995 Edition) lays down clearly the circumstances which justify treatment in

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private medical institutions. Relevant portion of para-1 of the Appendix is reproduced below:-

"(1) Circumstances to justify treatment in private medical institution-In emergent cases involving accidents, serious nature of disease, 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 recognized hospital is available nearer than the private hospital. The Controlling Authority/Department will decide on the merits of the case whether it was a case of real emergency necessitating admission in a private institution. If the Controlling Authorities/Departments have any doubt, they may make a reference to the Director-General of Health Services for option".

7. When such provision is there allowing treatment even in a private medical institution, one fails to understand how the applicant could be denied the benefit when he was shifted to CMC Hospital, Vellore which is admittedly a hospital recognized by the Central Government for treatment of its employees. Moreover there is also no dispute that CMC Hospital, Vellore is the nearest hospital and not St. Venkateswara Institute of Medical Sciences at Tirupati. The argument advanced by the learned counsel for the respondents that the applicant should have reported to SVIMS, Tirupati is therefore not acceptable.

8. There is no dispute that the applicant had a heart attack on the morning of 15.9.92, that he was rushed to the Government Hospital, Chittoor and that he was evacuated to CMC Hospital, Vellore in the Ambulance provided by the Government Hospital Chittoor. Under these circumstances, the question of obtaining prior sanction of the Controlling Authority does not arise. If such sanction is mandatory under the rules it will necessarily have to be given ex-post-facto. It

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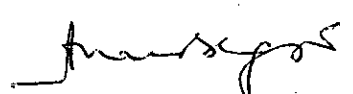
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will be difficult to imagine a more deserving case than this where such ex-post-facto^{sanction} should have been given by the competent authority.

9. When the claim of a Government employee is found to be bonafide and generally covered by the rules, ~~it~~ will not be proper to take a pedantic view of the matter and raise technical hurdles merely for the purpose of defeating the genuine claim of the employee.

10. In the result, the OA is allowed. The respondents are directed to accord ex-post-facto sanction for the treatment of the applicant at CMC Hospital, Vellore and process his medical reimbursement claim in accordance with the extant rules and finalise payment to the applicant within a period of two months from the date of communication of this order. No order as to costs.


(A.B.GORTHI)
Member (Admn.)

Dated: 1st August, 1995
(Dictated in Open Court)


Deputy Registrar (Judl.)

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Copy to:-
1. The Senior Superintendent of Post Offices, Chittoor Division, Chittoor.
2. The Post Master General, A.P.Southern Region, Ashoknagar, Kurnool.
3. One copy to Sri. Krishna Devan, advocate, CAT, Hyd.
4. One copy to Sri. N.V.R aghava Reddy, Addl. CGSC, CAT, Hyd.
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