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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH
AT HYDERABAD

OA.1032/99

dt. 4.2.2000

Between

M.P. Padmanabhan

: Applicant

and

1. Director
Defence Electronic Research
Laboratory (DLRL), CG Lines
Hyderabad

2. DirectorGeneral
Research and Development
Dte. of Personnel (RD personnel)
Min. of Defence, B-Wing
Sena Bhavan
New Delhi 110011

3. Secretary
Govt. of India, Min. of Health
and Family Welfare
D/o Health, Nirman Bhavan
New Delhi

: Respondents

Counsel for the applicant

: K. Venkateswara Rao
Advocate

Counsel for the respondents

: B. Narasimha Sharma
Senior CGSC

Coram

Hon. Mr. B.S. Jai Parameshwar, Member (J)

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Order

Order (per Hon. Mr. B.S. Jai Parameshwar, Member (JUD1))

Heard Mr. K. Venkateswara Rao, learned counsel for the applicant and Mr. M.C. Jacob for Mr. B.N. Sharma, learned counsel for the respondents.

1. This is an application under Section 19 of the Administrative Tribunals Act, filed on 14-7-1999.
2. The applicant is working as Driver C in Motor Transport section in the DLRL. He was suffering from Heart ailment and was under treatment with the CGHS, Kanchan bagh, Hyderabad. The CGHS authorities advised the applicant to undergo angioplasty (Coronary) and referred the applicant to the Medical Superintendent, Apollo Hospitals, Hyderabad (hereinafter referred to as "hospital").
3. The hospital gave probable expenditure to treat the applicant. On 22-1-1999 the hospital estimated the cost of treatment at Rs.1,12,500. On the basis of the said estimate the Respondent No.1 paid to the Hospital an advance of (80% of the cost of treatment) i.e. about Rs.90,000 on 8-2-99. Later the hospital gave an additional estimate of Rs.79,000. On that basis the Respondent No.1 released Rs.60,000 in favour of the hospital on 16-2-1999.
4. The Senior Accounts Officer, Office of the CDA (R&D), Hyderabad, informed the Respondents to the effect that a sum of Rs.9,578 has to be recovered from the pay of the applicant on the following grounds viz.:
 - a) The coronary stent cost admissible is Rs.60,000 as against Rs.68,200 charged by the hospital.
 - b) The consultation and diet charges are not admissible under the CGHS rules.

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c) Thereupon the respondents No.1 issued impugned letter dated 9-6-1999 ordering recovery of Rs.9,578 from the pay of the applicant in four instalments commencing from July, 1999 onwards.

5. Being aggrieved the applicant has filed this OA for the following reliefs :

· To call for records relating to Lr.No.DLRL/Fin/Medical Advance/411022/Min(NT) Admn. (Finance Section) dated 9-6-1999 and quash the same and consequently declare that the applicant is entitled for reimbursement of Rs.9,578/- (excluding diet charges).

6. The applicant relied on order dated 19-4-99 in OA.1197/98 on the file of this Tribunal.

7. By the interim order dated 15-7-1999 the operation of the impugned letter dated 9-6-99 was suspended until further orders.

8. The respondents have filed their reply.

9. The above narrated factual aspects are not at all in dispute. It is stated that the applicant after his discharge from the hospital submitted ^{the} bill bearing No. 069812 dated 22-2-1999 for Rs.1,50,172 (Annex.14) to the Respondent No.1 and he submitted another bill No. ICG 01202 dated 16-2-1999 for settlement of the amount paid to the hospital as advance. The Respondent No.1 referred the claim to the Audit authorities for passing the bills for payment in settlement of the advance paid to the hospital i.e. Rs.1,50,000.

10. The CDA passed the bill for Rs.1,42,4222/- out of the total claim of Rs.1,50,222/- while disallowing a sum of Rs.9,578/- pertaining to the coronary stent cost, consult-

ation and diet charges which were charged over and above the admissible limit ^{Under the CGHS Rules.} for ^{the} same. Hence, it became necessary for them ^{to} order recovery of the said sum from the applicant.

11. They further submit that reimbursement of medical expenditure is being made as per orders in force. The applicant was fully aware of the limitation/restrictions on the reimbursement of medical expenditure by virtue of his undertaking furnished to the Department on 2-2-1999 and 15-2-1999 wherein he had accepted to bear the extra expenditure charged by the hospital over and above the rates prescribed under the CGHS rules and the approved rates. The reimbursement is limited only to the CGHS approved rates. The applicant is required to bear the charges over and above the charges prescribed by the CGHS authorities, himself.

12. They rely on the Ministry of Health OM No.S-11011/16/92/CGHS Desk.II(P) dated 1-7-96 (Annex.12) and letter No. S-11011/6/96 - CGHS (P) dated 11.6.97 Dairy order Part.I. 349 dated 20-9-96 and No.209 dated 15-7-97 respectively. They relied on the decision of the Hon. Supreme Court in the case of State of Punjab and others Vs. RL Bagha reported in 1998(2) AISLJ p.35.

13. They further submit that the monthly emoluments of the applicant is Rs.8,335 and the Respondent No.1 by the impugned letter ordered to recover a sum of Rs.9,573 in four monthly instalments.

14. The applicant has not filed any rejoinder to the reply.

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15. During the course of arguments the learned counsel for the applicant submitted that when the hospital furnished estimates on two occasions to the department then the Respondent No.1 should have ascertained the details pertaining to the estimate and in case the Respondent No.1 felt that the charges quoted by the applicant were above the charges prescribed by the CGHS charges he could ^{have} overruled the same and that the responsibility laid entirely on the Respondent No.1 in accepting the estimates submitted by the hospital without further scrutiny. Therefore the applicant who is a low paid employee cannot be made to suffer. Further he submitted that the Respondent No.1 by the impugned letter is ordered to recover a sum of Rs.9,578 in four instalments which causes much hardship to the applicant.

16. As regards this, the learned counsel for the respondents submitted that the applicant even before undergoing the treatment at the hospital had given undertaking to the Respondent No.1 that he would bear the extra charges charged by the hospital and that in fact the Department had on the basis of the estimates submitted by the hospital released a sum of Rs.1,50,000 to enable the applicant to undergo the required treatment. That ~~in fact~~ the Respondent No.1 had submitted the bills submitted by the applicant to the Senior Accounts Officer for passing the same. That the Senior Accounts Officer has noticed coronary stent cost admissible under ^{the} CGHS rules is only Rs.60,000 whereas the hospital charged Rs.68,200 and that the Senior Accounts Officer felt that the applicant is not entitled to consultation and diet charges. It is on these grounds that the ^{Senior} Accounts Officer informed the applicant to refund a sum of Rs.9,578. Accord-

ingly the impugned letter has been issued. Further they relied upon the decision of the Supreme Court to contend that the policy of the Government is not to reimburse the excess charges charged by the hospital but reimburses only the charges prescribed by the Government from time to time. If the hospital charges over and above the prescribed rates then the Government employee has to bear the extra charges.

17. In para 24 of the case cited supra, the Hon. Supreme Court has been pleased to observe as under:

"No state of any country can have unlimited resources to spend on any of its project. That is why it only approves its projects to the extent it is feasible. The same holds good for providing medical facilities to its citizen including its employees. Provision of facilities cannot be unlimited. It has to be to the extent finance permit. If no scale or rates is fixed then in case private clinics or hospitals increase their rate to exorbitant scales, the State would be bound to reimburse the same. Hence we come to the conclusion that principle of fixation of rate and scale under this new policy is justified and cannot be held to be violative of Article 21 or Article 47 of the Constitution of India."

18. The learned counsel has produced an incomplete observation which I could not make out the details. However, in the view of the Supreme Court decision it may not be applicable to the facts of the case.

19. Further the respondents relied upon the decision of the Mumbai Bench of this Tribunal in OA.356/98 (KR Nair Vs. Union of India and another). The Mumbai Bench of this Tribunal followed the decision of the Hon. Supreme Court and held that restricting the medical expenses according to the rates prescribed by the All India Institute of Medical Sciences is not violative of Article 21 of the Constitution of India.

20. The applicant had given an undertaking to the Department that he would bear the extra charges charged by the hospital over and above the rates prescribed by the CGHS authorities. It is not in dispute that the objections raised by the Senior

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Accounts Officer to the extent of Rs.9,578 cannot be said to be perverse. As per the CGHS rules, the Senior Accounts Officer has raised objections and directed to recover a sum of Rs.9,578 from the pay of the applicant.

21. Considering the facts and circumstances of the case I am of the opinion that the respondent authorities are not bound to reimburse the entire medical expenditure incurred by the applicant. The applicant is entitled to claim the reimbursement only in accordance with the rules prescribed by the CGHS authorities. It is between the Department and the hospital regarding fixation of the rates. When a hospital is recognised by the CGHS normally the hospital has to charge as per the rates prescribed by the CGHS authorities. In certain cases it may happen that the hospital may charge over and above the rates prescribed by the CGHS authorities. In such an event the excess charged by the hospital has to be borne by the Government employee.

22. Lastly, the learned counsel for the applicant submitted that the recovery of Rs.9,578 in four instalments cause much hardship to the applicant. The applicant is a Driver Gr.C in the DLRL. He is a low paid employee. I accept the contentions of the learned counsel for the applicant that recovery of Rs.9,578 in four instalments causes much hardships to the applicant. The applicant is aged 58 years. He has only 2 years of service. Hence, considering the facts and circumstances of the case and also the status of the applicant I direct the Respondent No.1 to recover the sum of Rs.9,578 in 20 instalments.

23. Hence, I pass the following order :

a) The decision of the Respondent No.1 to recover a sum of Rs.9,578 from the applicant is upheld.

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b) The Respondent No.1 shall recover the said sum of Rs. 9,578 in 20 instalments from the salary of the applicant as indicated above.

24. With the above directions the OA is disposed of.
No order as to costs.


(B.S. Jai Parameshwar)
Member (Judl.)

Dated 4 February, 2000



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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH : HYD52ABAD.

1ST AND 2ND COURT

COPY TO:

1. HDHNJ
2. HRRN M (ADMN.)
3. HBSJP M (JUDL.)
4. D.R. A(DMN.)
5. SPARE
6. ADVOCATE
7. STANDING COUNSEL

TYPED BY
COMPIRED BY

CHECKED BY
APPROVED BY

THE HON'BLE MR. JUSTICE D.H.NASIR
VICE CHAIRMAN

THE HON'BLE MR.B.RANGARAJAN
MEMBER (ADMN.)

THE HON'BLE MR.B.S.JAI PARAMESWAR
MEMBER (JUDL.)

* * *

DATE OF ORDER: 4/2/2000

MA/RA/CP.NO.

IN

OA. NO. 1032/99

ADMITTED AND INTERIM DIRECTIONS
ISSUED

ALLOWED

CP CLOSED

RA. CLOSED

DISMISSED WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDER/REJECTED

NO ORDER AS TO COSTS

