

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD

OA.No.1215/99

dt. 15-1-2001

Between

O. Satya Prasad : Applicant

and

1. Principal Accountant General (Audit-I)
Andhra Pradesh, Saifabad, Hyderabad

2. Addl. Director,
Central Govt. Health Scheme
Kendriya Swastya Bhavan
Begumpet, Hyderabad : Respondents

Counsel for the applicant : P.V.P. Mruthyumjaya Rao
Advocate

Counsel for the respondents: B. Narasimha Sarma
Sr. CGSC

Coram

Hon. Mr. Justice V. Rajagopala Reddy, VC



Order

Oral order (per Hon. Mr. Justice V. Rajagopala Reddy, VC)

Heard Mr. P.V.P. Mruthyumjaya Rao for the applicant and Mr. B. Narasimha Sarma for the respondents.

2. The applicant is a Senior Auditor in the office of R-1, Principal Accountant General (Audit-I) in Andhra pradesh. His wife, Smt. O. Bharathi was admitted in the CDR hospital, Himayat Nagar, Hyderabad, on the advice of the concerned Medical officer in the dispensary run by the Central Government Health Scheme (CGHS) in April/May, 1997 for treatment of Spinal Fusion Bone Grafting and Thoracostomy.

3. It is not disputed that the applicant is governed by the CGHS and the CDR hospital is a recognised referal hospital. After the applicant's wife was successfully operated, the hospital issued ^a bill ~~for~~ of Rs.46,220/- and that the same was submitted to R-1, which restricted the claim to 29,378/- ~~only~~ disallowing an amount of Rs.16,842/-. The said amount was sought to be recovered from the applicant. An amount of Rs.1633/- was recovered from his pay towards first instalment and the balance is sought to be recovered in nine instalments. Aggrieved by the same the applicant approached this Tribunal in this OA.

4. The learned counsel for the applicant submits that under Rule 6 of the Central Services (Medical Attendance) CS(MA) Rules it is obligatory that a show cause notice should be issued stating the reasons for disallowance of the claim. Such a procedure ^{is} not followed by the R-1 in this case.

5. It is further contended that the applicant is entitled under the aforesaid rules for treatment free of

cost at the referral hospital. Hence, no amount need be paid by the applicant for the treatment given by the referral hospital on the advice of the concerned medical officer.

6. The learned counsel for the respondents, however, maintains that the impugned order is validly passed. It is contended that the aforesaid CS(MA) Rules are not applicable to the applicant as the CGHS-order of Ministry of Health & Family Welfare (Dept. of Health) No.S.11011/16/92/CGHS Desk II/CGHS(P) dated 1-7-96 is made applicable to the Government servants working in the office in the twin cities. Under the said scheme dated 1-7-96 certain charges are liable to be disallowed and the amount is ~~liable to be~~ ^{while} recovered ~~is sought to be made~~ disallowing the claims made by the ~~applicant~~, strictly in accordance with the said scheme.

7. I have given careful consideration to the contentions raised by the learned counsel on either sides.

8. The learned counsel for the applicant places heavy reliance on Rule 6 of the CS(MA) herein after called Medical Attendance rules, to submit that for want of proper notice the ~~amount recovered~~ ^{claim made by respondent} has to be set aside.

9. Rule 6 of the aforesaid rules reads as follows:

"6.(1) A Government servant shall be entitled, free of charge, to treatment-

(a) in such Government hospital at or near the place where he falls ill as can in the opinion of the authorised medical attendant provide the necessary and suitable treatment; or

QRA

..3.

(b) If there is no such hospital as is referred to in sub-clause (a) in such hospital other than a Government hospital at or near the place as can in the opinion of the authorised medical attendant, provide the necessary and suitable treatment.

(2) Where a Government servant is entitled under sub-rule (1), free of charge, to treatment in hospital any amount paid by him on account of such treatment shall, on production of a certificate in writing by the authorised medical attendant in this behalf, be reimbursed to him by the Central Government:

Provided that the controlling officer shall reject any claim if he is not satisfied with its genuineness on facts and circumstances of each case, after giving an opportunity to the claimant of being heard in the matter. While doing so, the controller officer shall communicate to the claimant the reasons, in brief, for rejecting the claim and the claimant may submit an appeal to the Central Government within a period of forty-five days of the date of receipt of the order rejecting the claim."

10. Sub-rule 1 of the above rule shows that a Government servant governed by these rules is entitled for treatment free of charge in any Government hospital.

Proviso to Sub rule 2, however, makes it clear that the Government is entitled to reject a claim if it is not satisfied.

Thus it is clear that in the above rules Government can reject a claim. But the question that arises for our consideration is whether the Medical Attendance rules are applicable at all for the applicant.

11. In the note-2 appended to sub rule 2 of Rule-1 of the above rules, in clause-vi, it is clearly stated as under :

"Note-2 - These rules do not apply to -

(i) ... (v)

(vi) Government servants who are governed by the Central Government Health Scheme while in stations where this scheme is functioning;"

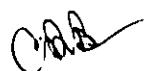
12. It is not in dispute that the applicant is governed by the CGHS and in fact on the advice of the concerned doctor of the dispensary under the CGHS the applicant's wife was admitted in the CDR Hospital, Himayatnagar, Hyderabad. Hence, these rules have no application to the applicant. The question of giving notice to the applicant as contemplated under Rule 6 is ^{also} of no application in this case.

13. It now falls for our consideration whether the impugned recovery was made in accordance with CGHS-order dated 1-7-1996. Under this scheme certain hospitals have been enumerated as referral hospitals and the Medwin hospitals is one of the referral hospitals. The applicant's wife was therefore referred to Medwin hospital for treatment and the bill was given by the said hospital for an amount of Rs.46,220/-. The Respondent-1 however disallowed Rs.16,842/-.

14. In reply of R-1 it is stated in para-7 that the following amounts have been disallowed from the claims preferred :

..." As such the following amounts were disallowed from the claims preferred:

1. Room rent	: Rs.1,440.00
2. Medicines	: Rs.13,359.00
3. Telephone charges	: Rs. 60.00
4. Admission	: Rs. 20.00
5. Consultations	: Rs. 1,450.00
6. Investigations	: Rs. 514.00.
Total	<u>Rs.16,843.00</u> "



15. The learned counsel for the respondents relying upon the Clause-v of the scheme submits that they are properly disallowed. Clause-v reads as under :

"....This will not include diet, Telephone charges TV Charges and cost of cosmetics, toiletry, tonics and medicines advertised in mass media which are not reimbursable.

The maximum room rent for different categories would be :

Private-I	Rs.600/- per day
Private-II	Rs.350/- per day
Semi Private	Rs.200/- per day
General ward	Rs.80/- per day."

16. From a reading of the above, it shows that the package deal does not include diet, telephone bill, TV charges, cost of cosmetics, toiletry, medicines advertised in mass-media ^{✓ And They} etc. ~~which~~ are not reimbursable.

17. It is also shown that maximum room rent in respect of General-ward was Rs.80/- per day. The applicant's wife was admitted in the General-ward for 30 days. Hence, the room rent would come to Rs.2400/-. Thus, the room rent upto Rs. 2400/- is allowed. But curiously an amount of Rs.1440 ^{✓ claimed for room rent} was disallowed. Like-wise ^{for} medicines amounting to Rs.13,359/- was disallowed. Whereas under the above clause unless the medicines are used which were advertised in the mass-media they cannot be disallowed. There is no material to show either in the counter or in material papers, list of medicines advertised in the mass-media. Likewise items disallowed viz. item 5 & 6, consultation and investigation are not also items shown in the clause ~~v~~ as being excludable items. However, telephone charges and admission charges crediting to Rs.80/- ^{✓ dis-} is rightly allowed and the same is not reimbursed.

Thus, out of total Rs.16,843/- I find that only Rs.80/- is to be excluded. Hence, Rs.16,763/- cannot be disallowed.

18. Hence, an amount of Rs.16,763/- cannot be recovered from the applicant.

19. The OA is accordingly allowed. ~~No~~ costs.

Ambygireland
(V. Rajagopala Reddy)
Vice Chairman

Dated : 25 January 2001
Dictated in Open Court

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH: HYDERABAD

COPY TO

1ST AND 2ND COURT

1. HVNSRD

TYPED BY
COMPARED BY

CHECKED BY
APPROVED BY

2. HONORABLE MEMBER (JUDL)

THE HONORABLE MR JUSTICE V. RAGA GOPAL REDDY
VICE-CH (JUDL)

3. HON. MEMBER (ADMIN)

THE HONORABLE MR B.S. DAI (PARMESHWAR
MEMBER (JUDL))

4. D.R. (ADMIN)

THE HONORABLE MR M.V. NATARAJAN
MEMBER (ADMIN)

5. SPRE

6. ADV. CATE

7. STANDING COUNSEL

DATE OF ORDER: 25/1/2001

MR/RD/CP.ND

IN

CA. NO.:

1215/99

ADMITTED AND INTERIM DIRECTIONS
ISSUED

ALLOWED

C.P. CLS'D

R.A. CLS'D

DISP'D OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDER/REJECTED

NO ORDER AS TO COSTS

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