

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

R.A.No.45/95
(O.A.No.384/94)

Date of order: 20.7.95

Union of India & Ors.

: Applicants

Vs.

Major R.N.Mathur

: Respondents

CORAM:

Hon'ble Mr.O.P.Sharma, Member(Adm.)

Hon'ble Mr.Ratan Prakash, Member(Judl)

PER HON'BLE MR.O.P.SHARMA, MEMBER(ADM).

This Review Application has been filed by the Govt. respondents in respect of order dated 12.5.95 passed in O.A. No.384/94, Major R.N.Mathur Vs. Union of India & Ors.

2. The Review Application is stated to be delayed by 3 days. However, in the interest of justice, we condone this delay on the basis of the prayer made by the government respondents in M.A.No.275/95 which, therefore, now stands disposed of.

3. In the O.A.No.384/94 the prayer of the original applicant was that the respondents may be directed not to recover an amount of Rs.35,000/- from the applicant, being the alleged excess amount paid to Batra Hospital, New Delhi for medical treatment of the applicant. The application was allowed for the detailed reasons given in the order dated 12.5.95.

4. The facts of the case were that a loan of Rupees one lac had been advanced to the applicant for medical treatment at Batra Hospital. As per the CGHS rate, only an amount of Rs.65,000/- was payable to Batra Hospital, which was one of the recognised Hospital for the treatment of patients covered by CGHS. Since the applicant could not be given the treatment required by him at the Army Hospital, he got this treatment from Batra Hospital. However, a cheque of Rs.1 lac was made out in favour of Batra Hospital after the applicant had obtained the treatment and this amount was made to the Batra Hospital.

The applicant had given an undertaking that any expenditure in

excess of Rs.65,000/- would be reimbursed by him. However, since a cheque of Rs.1 lac was made out by the authorities in favour of Batra Hospital that amount was got paid to the Hospital. The Tribunal in its order dated 12.5.95 had held that the applicant was not responsible for making payment of Rs.1 lac to Batra Hospital and that payment of this amount was made in view of the fact that a cheque for Rs.1 lac was issued by the Army Hospital, Delhi Contonment, in favour of Batra Hospital and that the applicant cannot be held responsible for the excess amount.

5. In the review application, the first point raised by the respondents is that there was a factual error in the order of the Tribunal to the effect that whereas the charges payable to the Batra Hospital were Rs.65,000/-, an amount of Rs.1 lac got paid to the Hospital. According to the govt. respondents, Rs.65,000/- is the maximum amount reimbursable by the government for the particular treatment obtained by the applicant and the government's liability is limited to only Rs.65,000/-. Further, according to them, the amount payable to Batra Hospital is to be decided by them and cannot be bargained by the applicant at his own level. As stated in the order dated 12.5.95, Batra Hospital is one of the Hospitals recognised for the particular treatment obtained by the applicant and the rates to be charged by Batra Hospital for this treatment were the same as provided by the Ministry of Health and Family Welfare for CGHS patients. In other words the amount payable to Batra Hospital was Rs.65,000/- only. We do not find any factual error in the order in this regard.

6. The second point raised by the Govt. respondents in the Review Application that there is a further error in the order of the Tribunal in as much as the Tribunal had observed that excess payment seems to have been made to Batra Hospital in

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view of the cheque for Rs.1 lac issued by the Army Hospital in favour of Batra Hospital and that the applicant cannot be held responsible for the excess amount paid. The official respondents stated that this is not a case of excess payment in as much as the amount was paid as per the bill raised by the Hospital. Further, according to them, the applicant had undertaken to refund any amount in excess of Rs.65,000/-.

7. We do not understand the relevance of the points raised by the official respondents. When only Rs.65,000/- were payable to Batra Hospital and Rs.1 lac were in fact paid, this was a case of excess payment, even if it is on the basis of the bill raised by the Hospital. The fact remains that payment of Rs.1 lac was made on the basis of the cheque issued by the Army Hospital in favour of Batra Hospital and that is how excess payment got made.

8. In these circumstances, the applicant could not be held responsible for the excess payment and could also not be liable for reimbursement of the excess amount because he was not responsible for the payment of excess amount.

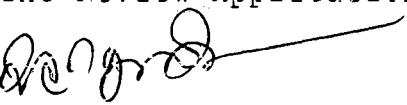
9. Yet another point raised by the official respondents is that the Tribunal erred in holding that even assuming that the applicant was granted a loan of Rs.1 lac in so far as the payment to Batra Hospital is concerned, it was the duty of the Army Hospital to ensure that payment to Batra Hospital was made at the rate prescribed. According to the official respondents, the Tribunal had failed to appreciate that payment to Batra Hospital was made on the basis of a loan application made by the original applicant with a clear undertaking that any amount over and above the permissible limit would be borne by him.

9. Although, the applicant had made an application for loan of Rs.1 lac, cheque for Rs.1 lac was made out by the Army Hospital in favour of Batra Hospital. Either the Army Hospital should have paid the amount of Rs.1 lac to the applicant or

they should have made out a cheque for the amount payable to Patra Hospital at the rate which is prescribed for CGHS patient namely Rs.65,000/-. We do not see any error in our order in this regard.

10. We have carefully considered all the submissions made in the Review Application. We find that there is no error apparent from the record in our order dated 12.5.95. What the official respondents are in fact seeking is a reappreciation of the facts of the case and a review of the order earlier passed on merits. This is not permissible under Order XXXXVII Rule 1 of the CPC.

12. The Review Application is dismissed in limine.



(Ratan Prakash)

Member (Judl.)



(O.P. Sharma)

Member (Adm.)