

CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

ORIGINAL APPLICATION NO. 291/00046/2015

Order Reserved on 15.09.2016

DATE OF ORDER: 27/09/2016

CORAM

HON'BLE MS. MEENAKSHI HOOJA, ADMINISTRATIVE MEMBER

Mahesh Chandra Sharma S/o Shri Prahalad Sharma, aged about 53 years, R/o 116/17 Agrawal Farm, Mansarovar Jaipur, presently working as T.M. (Telecom Mechanic) o/o P.G.M.T.D., Jaipur.

....Applicant
Mr. P.N. Jatti, counsel for applicant.

VERSUS

1. Union of India through the Chairman, Bharat Sanchar Nigam Ltd., B.S.N.L. Bhawan, New Delhi.
2. Chief General Manager Telecom, B.S.N.L. Sardar Patel Marg, Jaipur-8.
3. Principal General Manager, Telecom District, M.I. Road, Jaipur – 10.
4. S.D.O. Phones B.S.N.L. Bajaj Nagar, Jaipur-15.

....Respondents
Mr. Umesh Kumar Sharma, counsel for respondents.

ORDER

This Original Application has been filed by the applicant under Section 19 of the Administrative Tribunals Act, 1985, aggrieved with the denial of medical reimbursement claim vide impugned order dated 11.03.2014 (Annexure A/1) seeking the following reliefs:

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- “8.1 That by a suitable writ/order or the directions the impugned order dated 11.03.2014 vide Annexure A/1 be quashed and set aside.
- 8.2 That by a suitable writ/order or the directions the respondents be directed to reimburse the medical bills and to pay as Rs.

2,03,899/- (two lakh three thousand eight hundred ninety nine only) as per the note sheet with a reasonable interest on the money.

8.3 Any other relief which the Hon'ble bench deems fit.”

2. When the case came up for hearing and consideration, learned counsel for the applicant submitted that this matter pertains to medical reimbursement of the treatment undertaken by the applicant's father, Shri Prahlad Dutt Sharma. Counsel for the applicant referred to Annexure A/2 dated 12.12.2013 issued by the Santokba Durlabhji Memorial Hospital (S.D.M.H.), Jaipur, which is an 'Emergency Certificate', and submitted that father of the applicant, aged 78 years, was admitted in emergency on 11th July, 2013 with Complete Heart Block and he underwent emergency temporary pacing with coronary angiography on 11.07.2013 and permanent pacemaker implantation (DDDR) on 12.07.2013 and thereafter he was discharged on 15th July, 2013 in stable condition and all these operations / procedures were done on emergency basis as a life saving measure.

3. Counsel for the applicant further referred to Annexure A/3 dated 12.07.2013, which is Inspection Certificate issued by the officer of BSNL, Shri Sunil Kumar Saxena, who visited the father of the applicant on 12.07.2013 in the S.D.M.H., Jaipur in which it is mentioned that after verifying all the facts regarding treatment, he noted that the patient had 'Complete Heart Block' and 'heart failure trouble'.

4. Counsel for the applicant further submitted that as per Central Services (Medical Attendance) Rules, as at Annexure A/9, there are exception in case of emergency, and it has been provided that in case of extreme emergencies or unforeseen circumstances, when an official or the member of his family falls ill, he/she may be allowed to take treatment from any other empanelled authorized medical attendant even if he is not an authorized medical attendant nominated by his department or nominated by the official.

5. Counsel for the applicant further referred to explanation letter of the applicant dated 18.02.2014 Annexure A/7, (submitted in pursuance of Notice of the respondents dated 30.01.2014 Annexure A/6) in which he has clarified that his father had gone to Moti Dungari Ganeshji Temple and Birla Mandir, Jaipur on 11.07.2013 in the evening as per usual practice (and the applicant at that time was on night duty) and suddenly had chest pain and became unconscious and some kind person took him to S.D.M.H, Jaipur which is a very nearby Hospital and the treatment was, therefore, got done as an emergency and life saving measure. As the treatment was done in an emergency, as evident from the certificate of the Hospital authority (Annexure A/2) and the kind person took the applicant's father to SDMH, which is a renowned private Hospital just about 100 metres from Moti Dungari Ganeshji Temple, seeing the critical condition of the patient, the medical reimbursement claim is fully in order. As the father of the applicant had fallen ill suddenly and the applicant was himself on duty, it was not in his hand to take him to a BSNL recognized or

Govt. Hospital and the kind person took him to the well known nearby Hospital to save his life. Thus, the applicant is entitled to reimbursement of the medical claim of Rs. 2,03,899/- as per medical reimbursement claim bill as at Annexure A/5 and prayed for the OA to be allowed.

6. Per contra, counsel for the respondents submitted that the applicant is not entitled to any medical reimbursement because in the first place, the applicant in his explanation/application dated 18.02.2014 (Annexure A/7) has mentioned that on 11.07.2013 he was on night duty whereas he has not submitted any proof for being on night duty in the office of SDO Phone for Telephone Mechanic and further in the department of the applicant there is no provision for night duty. The applicant has also not mentioned anything about the name of the person who got his father admitted in the SDMH, Jaipur. Counsel for the respondents further submitted that it has not been clarified by the applicant as to how his father, who is around 78-80 years of age, had gone to Moti Dungari Ganeshji Temple and Birla Mandir, Jaipur and by which mode of travel/transport and whether he was escorted by any friend or family member. Counsel for the respondents also submitted that Soni Hospital, Jaipur, which is authorized empanelled hospital of BSNL, is even more nearby to Moti Dungari Ganesh Temple and Birla Mandir, Jaipur, but the father of the applicant was not taken to that Hospital. Counsel for the respondents further submitted that the applicant was given a notice Annexure A/6 dated 30.01.2014 to explain the various objections, but in view of the un-

satisfactory reply (as at Annexure A/7 dated 18.02.2014), claim of the applicant was correctly rejected by the respondents vide Annexure A/1 dated 11.03.2014. Thus there are no grounds to grant the relief as sought for by the applicant and counsel for respondents therefore prayed for the dismissal of the OA.

7. Considered the aforesaid contentions and perused the record. It appears that after the applicant submitted medical reimbursement claim bill for Rs. 2,03,899/- (Annexure A/5) regarding indoor treatment taken by his father at SDMH, Jaipur from 11.07.2013 to 15.07.2013, a notice was issued to him on 30.01.2014 (Annexure A/6) calling for an explanation as to why the treatment has been taken at an unauthorized private hospital instead of a Government or authorized hospital of the BSNL. The applicant replied vide letter dated 18.02.2014 (Annexure A/7) stating that he was on night duty on 11.07.2013 and his father as per his usual practice had gone to Moti Dungari Ganeshji Temple and Birla Mandir, Jaipur where he had chest pain and became unconscious and it was only because of a kind person who took him to the SDMH, Jaipur, which is a private and well known hospital just 100 metres from the temples and got him admitted there; and after the patient gained consciousness the family members were informed of the same. The applicant has further added that the BSNL recognized Hospital Fortis is just 2-3 Kms. from his home and SDMH about 7-8 Kms. and in normal course he would have got him treated at Fortis, but as it was a case of grave emergency, the person who found him critically ill and unconscious took him to

SDMH which is a very nearby Hospital and can deal with emergencies. Therefore as his father had been admitted in an emergency condition, the applicant is entitled to medical reimbursement.

8. It is also noted that Shri Sunil Kumar Saxena, Sub Divisional Officer (Phones), Bajaj Nagar, Jaipur, who made the certificate of inspection, initially did not fill anything in the column regarding name of the illness, as is clear at page 21 of the OA, and only when a letter was issued to him by the respondents as at Annexure A/8 dated 11.03.2014, he noted down the name of illness 'Complete Heart Block'/heart failure trouble. Counsel for the applicant had referred to Annexure A/3 Report of the BSNL Visiting Officer Shri S.K. Saxena in which all details were mentioned, but it is noted that initially the columns regarding illness were left blank (as at page 21 of the OA) and only after notice, were the entries regarding illness etc. made subsequently as now seen at Annexure A/3. Thus even the Visiting Officer did not give a proper and full report when he visited the patient at SDMH on 12.07.2013 and such a report is to be seen with extreme caution.

9. It is further noted in this case that though a private hospital i.e. SDMH Jaipur has given a certificate of emergency (Annexure A/2) for the treatment given to the father of the applicant but the questions raised by the respondents ^{are} is valid that the applicant has not submitted any proof of his being on night duty on 11.07.2013, especially when it

has been mentioned in the reply to the O.A. that there is also no provision of night duty in the department where the applicant is working and there are many other unanswered issues. It is noted that even in the rejoinder there is no clarification of proof regarding the applicant being on duty at that night. As the applicant is a BSNL employee and can claim medical reimbursement only as per rules, it is important that the required rules, regulations and procedure laid down are followed and that the applicant must furnish all the information in a correct, honest and straightforward manner. Therefore, it is important to know whether the applicant was on duty at that night in the office of SDO (Phone) and upto what time and further what was the mode of travel/ transport of the applicant's father, around 78-80 years of age at that time, to Moti Dungari Ganeshji Temple and Birla Mandir, which is about 7-8 Kms. from the applicant's house and whether the applicant's father travelled there from his house by himself unescorted or escorted by any family member or friend and the name and particulars of the person who kindly took him in the emergency to SDMH, Jaipur and after he gained consciousness, informed the family of the applicant about his father's condition.

10. In view of the above analysis, it is deemed appropriate to dispose of this Original Application with certain directions. Accordingly, the applicant is directed to submit a representation / explanation giving all the details regarding proof of his being on night duty on 11.07.2013, the mode of travel/transport and circumstances in which father of the applicant went to Moti Dungari Ganeshji Temple and Birla Mandir,



Jaipur whether escorted by some family/friend or alone and particulars of the person who apparently got him admitted in an emergency condition in SDMH Jaipur, etc. so that the respondent-department can consider the case of the applicant for medical reimbursement with reference to their policy especially regarding reimbursement of indoor medical treatment taken in an emergency in an unauthorized private hospital.

11. If the applicant furnishes all these relevant details before the respondents within a month from the date of receipt of a copy of this order, the respondents are directed to consider and take a decision on the same regarding medical reimbursement claim of the applicant by a reasoned and speaking order in accordance with law, within three months from the date of receipt of such a representation. In case of any adverse order passed by the respondents, the applicant would be at liberty to approach the appropriate forum as per law.

The Original Application is disposed of as above with no order as to costs.


(MS. MEENAKSHI HOOJA)
ADMINISTRATIVE MEMBER

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