

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH,

JAIPUR

Date of order: 17.8.2004

OA No. 547/2003

Abdul Latif s/o Shri Abdul Shaker, aged about 53 years, r/o H.No.39, Nandpuri Colony, Purana Ramganj Road, Infront of Holiday Inn, Jaipur-2 presently working as Postman, Gandhinagar Head Office, Jaipur-15.

.. Applicant

Versus

1. Union of India, through the Secretary to the Govt. of India, Department of Posts, Dak Bhawan, Sansad Marg, New Delhi.
2. Chief Postmaster General, Rajasthan Circle, Jaipur-7.
3. Senior Superintendent, Post Offices, Jaipur City Dn. Jaipur-6.

.. Respondents

Mr. P.N.Jatti - counsel for the applicant

Mr. Tej Parakash Sharma - counsel for respondents

CORAM:

HON'BLE MR. M.L.CHAUHAN, MEMBER (JUDICIAL)

O R D E R (ORAL)

The present application has been filed for quashing the impugned order dated 3.4.2002 (Ann.A1) whereby the claim of the applicant for reimbursement of Rs. 1300/- on account of medical expenses was rejected solely on the ground that the claim was not submitted by the claimant within the prescribed period.

2. Facts of the case are that the applicant is an employee of the Postal Department. It is not disputed that the applicant and his family members are entitled to medical

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reinbursement as per rules. It is also not in dispute that the son of the applicant was admitted in the Sawai Man Singh (SMS) Hospital, Jaipur and he remained indoor patient for the period from 30.10.01 to 3.11.01. It is also not in dispute that the applicant submitted a medical reimbursement bill for Rs. 1300/- on 20.2.2002. However, his claim was rejected vide impugned order dated 3.4.2002 (Ann.A1) solely on the ground that the applicant has not submitted his claim within three months of completion of the treatment. The applicant made representation to respondent No.3 on 28.11.2002 in this regard. Since nothing was heard from the respondents, the applicant has filed this OA thereby praying that direction be issued to the respondents to reimburse the medical bill submitted by the applicant for treatment of his son.

3. Notice of this application was given to the respondents. The facts as stated above has not been disputed by the respondents. In the reply, it has been further stated that as per rules, the applicant was required to submit his claim within three months from the date of discharge i.e. 1.11.2002 but the applicant preferred his claim on 20.2.2002. Accordingly, the claim of the applicant was not entertained and rejected vide order dated 3.4.2002 stating reasons thereof. Regarding representation dated 28.11.2002, it has been stated that the applicant has not addressed his unsigned application to the proper / competent authority i.e. the Director, Postal Services, Jaipur Region, Jaipur, therefore, no action is required to be taken by respondent No.3. It is further stated that the appeal against the order of rejecting the claim should be submitted within a period of 45 days from the date of receipt of the order rejecting the claim as per Rule 6(2) of CS (MA) Rules, 1944. According to the

respondents, the applicant has not challenged the order passed by the competent authority, despite the remedy available to him. Therefore, the OA is liable to be dismissed.

4. I have heard the learned counsel for the parties and gone through the material placed on record.

4.1 It is not in dispute that son of the applicant remained indoor patient from 30.10.2001 to 3.11.2001 and as per rule 8 of the Central Service Medical Attendant Rules, 1944, medical claim should ordinarily be preferred within three months from the date of completion of treatment as shown in the last Essentiality Certificate issued by the Authorised Medical Attendant/Medical Officer concerned. At this stage, it will be useful to reproduce rule 8 of the Medical Attendence Rules, 1944, which will have bearing in this case and is in the following terms:-

"(8) Bills to be preferred within three months- It has been decided that final claims for reimbursement of medical expenses of Central Government servants in respect of a particular spell of illness should ordinarily be preferred within three months from the date of completion of treatment as shown in the last Essentiality Certificate issued by the Authorized Medical Attendant/Medical Officer concerned. The controlling authorities shall also be empowered not to entertain a medical claim not preferred by a Central Government within three months of the completion of the treatment where they are not satisfied with the reasons put forth by the Government servant for late submission of the medical claim or where the claim *prima facie* is incomplete.

Normally the Controlling Officers should reject any claim presented after three months unless they are satisfied with the reasons for delay which are to be recorded and can be examined in audit."

4.2 From perusal of the rule as quoted above, it is clear

that final claim for reimbursement of medical expenses of Central Government servant in respect of particular spell of illness should ordinarily be preferred within three months from the date of completion of treatment as shown in the last Essentiality Certificate issued by the Authorised Medical Attendant/Medical Officer. The applicant has categorically stated that Essentiality Certificate was issued by the Authorised Medical Attendant/Medical Officer concerned on 20.2.02 and the claim was submitted by him to the authorities on the same day, as such, there was no delay on his part in submitting the claim. I see considerable force in the submission made by the learned counsel for the applicant. Copy of the medical reimbursement bill has been placed on record as Ann.A4. It has been signed by the Doctor concerned on 20.2.2003. As such, there was no delay on the part of the applicant in submitting the claim before the authorities. It was incumbent upon the authority concerned to take notice of this fact and ought not to have rejected the claim solely on the ground that the claim has not been submitted within three months from the date of completion of treatment without taking into consideration the aspect that so long as the Essentiality Certificate was not issued by the Authorised Medical Attendant/Medical Officer concerned, such a claim could not have been submitted. That apart, before rejecting the claim, the competent authority should have asked for the reasons from the Government servant for late submission of medical claim and it is only thereafter the claim could have been rejected. This is implicit from last portion of rule (8) which has been quoted above, which mandate that the competent authority can reject the claim if it is not satisfied by the reasons put forth by the Government servant for late submission of the claim or where the claim is prima-facie incomplete.

4.3 From the impugned order Ann.Al it is apparent that no such opportunity was given to the applicant before rejecting the claim as time barred. Thus, according to me, the impugned order dated 3.4.2002 (Ann.Al) has been passed by the authority concerned mechanically and in violation of the rules. As such, the same is required to be quashed. From the reply, it is also clear that the representation of the applicant dated 28.11.2002 was not taken into consideration while passing the impugned order dated 3.4.2002. Accordingly, I am of the view that the impugned order Ann.Al is required to be quashed and set-aside. Since the amount of medical reimbursement bill is Rs. 1300/- and the fact remains that the applicant has incurred this amount on account of treatment of his son as indoor patient, there cannot be any doubt about the genuineness of this claim and the fact that the son of the applicant was admitted in the Hospital shows that son of the applicant was suffering from some serious ailment. In ordinary course, this Tribunal would have remitted the matter back to the controlling office to consider the case in right perspective and pass appropriate orders, but keeping the facts as stated above and that a petty amount is involved in this case, I am of the view that it will not be in the interest of justice to subject the applicant to this procedural rigmarole thereby further denying the claim of legitimate dues for which he is entitled according to the rules.

4.4 Accordingly, the impugned order dated 3.4.2002 (Ann.Al) is quashed. The respondents are directed to reimburse the claim of the applicant on account of medical expenses incurred by him on the treatment of his son within two months from today.

5. With these observations, the OA is allowed with no order as to costs.



(M.L.CHAUHAN)

Member (J)