

50/100

**CENTRAL ADMINISTRATIVE TRIBUNAL**  
**GUWAHATI BENCH**  
**GUWAHATI-05**

6

(DESTRUCTION OF RECORD RULES, 1990)

M.P-57/2001 order dated pg 1 to 2

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R.A/C.P No.  
E.P/M.A No. 57/2001

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SECTION OFFICER (Judl.)

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH: GUWAHATI. 5

ORIGINAL APPLICATION NO. 369/2000

Sri Bimalendu Gupta

APPLICANTS

versus.

Union of India & ors Respondents.

FOR THE APPLICANT(S) Mr. H.K. Das  
ADVOCATE

FOR THE RESPONDENT(S) C.G.S.C.

Notes of the Registry

DATE

COURT'S ORDER

31.10.2000

Present : Hon'ble Mr. Justice D.N. Chowdhury, Vice-Chairman.

Heard Mr. H.K. Das, learned counsel for the applicant and also Mr. B.C. Pathak, learned Addl. CGSC for the respondents.

Application is admitted. Call for the records. Issue usual notice.

Heard learned counsel for the parties on the interim prayer.

Issue notice to the respondents to show cause as to why the operation of the impugned orders dated 22.9.00 and 13.9.2000 (Annexures-A-2 and A-3) shall not be suspended. Returnable by four weeks.

An endeavour shall be made to dispose of the application at the admission stage.

List this case after four weeks along with O.A. 149/2000 and other connected matter thereto, on 28.11.00.

In the meantime, the respondents are ordered to grant advance T.A. for airfare proposed by the applicant as an interim measure subject to the condition that if at the end it is found

that ....

in  
time  
filed / for C.G.C.F.  
for Rs. 5/- per day  
vide I.O. No. 523772  
Dated 28.10.2000

By, Registrar.

Note: Men for case

Requisite filed

Notice prepared and sent to  
DB for issuing the respondents  
No 1 to 7 by Regd. AD & By Hand  
vide D No 2573 to 2579  
dtd 10/11/2000

13/11/2000  
A.B. Jena  
19/11

OA 369/2000

31.10.2000

CONTD

entitled that the applicant is not admissible to the same, the applicant will have to refund the money as provided under the rules and subject to the further order from this Tribunal.

Meanwhile, the respondents are restrained from recovering the amount of Rs.19,742/- set down in the orders dated 13.9.2000 and 22.9.2000 vide Annexures-A2 and A-3 till the returnable date.

List on 28.11.00 accordingly to show cause and further orders.

Vice-Chairman

① Service report was still awaited.

② No. ltr has been filed.

27.11.2000

Notice duly served on R No. 284. Other order retained

21/11/2000

mk

31/10/2000

28.11.00

Heard Mr H.K.Das, learned counsel for the applicant and Mr B.C.Pathak, learned Addl. C.G.S.C who has sought for time to file written statement. Four weeks time is granted to file written statement.

List on 1.1.2001 for order alongwith O.A. 329/2000.

Vice-Chairman

pg 28/11

1.1.2001

Let the case be listed along with O.A. 329/200 on 19.1.2001 for orders.

Vice-Chairman

mk

No. written Statement has been filed.

19-1-

No S.B. Adjourned to 26.1.2001

24.1.01

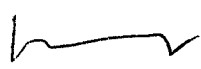


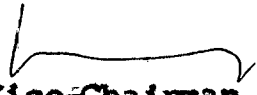
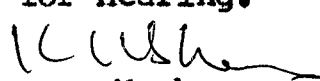
List it again on 14.2.2001.

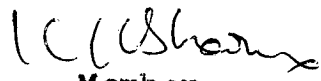
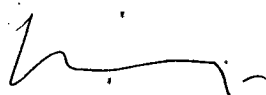


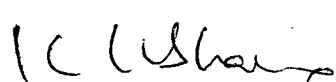
In the meantime the Respondents may file written statement if so desires.

Vice-Chairman

trd

(3) 3

Notes of the Registry	Date	Order of the Tribunal
	14.2.01	List on 16.2.01 for orders.   Vice-Chairman
	1m	
	16.2.01	List on 28.2.01 for orders.   Vice-Chairman
	1m	
No. written statement has been filed.  <u>By</u> <u>5.3.01</u>	28.2.2001	Heard Mr H.K. Das, learned counsel for the applicant. Issue notice returnable on 7.3.01. Mr B.C. Pathak, learned Addl. C.G.S.C. accepts notice on behalf of the respondents. List it accordingly on 7.3.01 for orders.   Vice-Chairman
No. written statement has been filed.  <u>By</u> <u>20.3.01</u>	nkm	
	7.3.01	List on 21.3.01 alongwith other connected cases. In the meantime the respondents may file written statement.   Vice-Chairman
	1m	
No. writs has been filed.  <u>By</u> <u>27.3.01</u>	21.3.01	Mr.S.K.Das learned counsel for the applicant submitted that he has received the written statement in O.A. No.149 of 2000 and 329 of 2000 only to-day. He has accepted the written statement on behalf of the learned counsel Mr.G.Sarma who is appearing in these cases. He submitted that time may be given for filing of rejoinder within 2 weeks. Shri Das is prepared to argue the only case No.369 of 2000 alongwith M.P.No.57 of 2000. Mr.B.C.Pathak Addl. C.G.S.C. submits that all the matters are inter-connected and these should be heard analogously. Let this case be listed on 28.3.01 for hearing.   Member
	1m	

Notes of the Registry	Date	Order of the Tribunal
	29.3.01	Mr. B.C. Pathak learned Addl. C.G.S.C. prays for adjournment on the ground the the order in O.A. No. 298 of 99 is awaited. List on 4.4.01 for hearing.
	lm	 Member
3.4.2001 w/s has been filed by the Respondent No. 1 to 5 & 7.	4.4.2001	On the prayer of Mr H.K. Das, learned counsel for the applicant, the case is adjourned till 25.4.01 for hearing.
	nkm	 Vice-Chairman
25.4.01	25.4.01	Mr. H.K. Das, appearing on behalf of Mrs. B. Dutta, Advocate, Govt. of Meghalaya, and Mr. G. Sarma, prays for one month time to file rejoinder to the written statement. Prayer allowed. List on 1.6.2001 for hearing.
		 Vice-Chairman
8.5.2001 Rejoinder submitted by the applicant against the w/s filed by the Respondent No. 5. Rejoinder enclosed with O.A. 149/2000.	1.6.01	None appears for pressing the application. The case is adjourned to 13-6-2001 for hearing.
	bb	By order 
	13.6.01	The matter was called for hearing. After 3 calls given none appears for the applicant. It is seen that on 4.4.01, 26.4.01 and 1.6.01 there is no representation on behalf of the applicant. It appears that the applicant is not interested in pursuing this application. Application is dismissed for default.
		 Member

Received applicant copy  
Bgmh  
2016  
21.8.2001  
Copy of the order has been sent to the Office for lm  
filing it and to the Addl. C.G.S.C.  
for its reference.

O.A.369 of 2000

Notes of the Registry	Date	Order of the Tribunal
	21.11.2001	<p>In view of the order passed in M.P.162 of 2000 this case is restored to file.</p> <p>List the case for hearing on 5.12.2001 along with O.A.149/2000, 329/2000 and M.P.57 of 2000.</p> <p><i>IC Usha</i> Member</p>
	5.12.2001	<p>List the case for hearing on 2.1.2002 along with O.A.149 of 2000.</p> <p><i>IC Usha</i> Member (A)</p>
	2.1.02	<p>Mr.A.Deb Roy, Sr.C.G.S.C. prays for adjournment on behalf of Mr.B.C.Pathak , Addl.C.G.S.C. on the ground of his absence to-day. Prayer is allowed. List on 25.1.02 for hearing.</p> <p><i>IC Usha</i> Member</p>
	25.1.2002	<p>Heard Mr H.K. Das, learned counsel for the applicant as well as Mr B.C. Pathak, learned Addl. C.G.S.C. Hearing concluded. Judgment reserved.</p> <p><i>IC Usha</i> Member</p>
	8.2.02	<p>Judgment delivered in open Court. Kept in separate sheets. Application is disposed of. No costs.</p> <p><i>IC Usha</i> Member</p>

bb

bb

lm

nk m

lm

22.2.02  
Copy of the Judgment  
handed over to the  
applicant as well as  
to the L/Advocate  
for the Reply  
SS

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH. X

Original Applications No. 149 of 2000,  
329 of 2000,  
369 of 2000 and  
479 of 2001.

Date of Order : This the 8th Day of February, 2002

The Hon'ble Mr K.K.Sharma, Administrative Member.

Sri Bimalendu Gupta  
Senior Accountant,  
Office of the Accountant General(A&E)  
Assam, Beltola,  
Guwahati-29.

... Applicant.

By Advocate H.K.Das (O.A.149/2000, 329/2000)  
Sri H.K.Das (O.A. 369/2000)  
Applicant appeared in person in 479/2001.

- Versus -

Union of India & Ors.

. . . Respondents.

By Advocate Sri B.C.Pathak, Addl.C.G.S.C.

O R D E R

K.K.SHARMA, ADMN. MEMBER.

All these applications filed by the applicant are taken up together as the issues raised in these applications are common and mainly pertain to the reimbursement of air travel expenses for the treatment of the applicant's wife and also reimbursement of medical expenses. The applicant's case has been argued by Mr H.K.Das, learned counsel for the applicant and the applicant also elaborated the arguments in person.

2. The facts relevant for the purpose of disposal of these applications are that the applicant's wife is a State Government employee. The applicant's wife gave a declaration dated 10.7.90 to claim the medical reimbursement facilities under CSMA Rules, as applicable to the applicant for her treatment and stated therein that she

1 C Sharma

8 would not avail of medical allowance facilities from the Government of Assam. The applicant's wife is suffering from different ailments. As per recommendation of the treating physician of GMCH the applicant's wife was treated in All India Institute of Medical Sciences, New Delhi. The applicant's wife was being treated by physician of GMCH Dr Robin Medhi who advised that she should be treated at Apollo Hospital, Chennai. She was treated at Apollo Hospital Chennai from 2.2.98 to 9.2.98 and from 19.9.99 to 29.9.99. While she was under treatment at Apollo Hospital, an amount of Rs.30,000/- was sanctioned by the respondent No.3 which was not sufficient for the treatment and a fax message dated 24.9.99 was sent by G.M.Finance, Apollo Hospital to the respondent No.3. It is stated that review treatment of the applicant's wife was approved by the Joint Director, CGHS vide his letter dated 14.9.99 and air travel for 2 escorts was also approved. The applicant's wife was released from Apollo Hospital on 29.9.99. The respondents refused to provide medical treatment at Apollo Hospital. The applicant had to file an application before the Central Administrative Tribunal being O.A. 149/2000 and vide interim order dated 5.5.2000 the respondents were directed to release the fund to enable the applicant to travel by air for review treatment. It is stated that the Director General of Health Services by order dated 25.7.2000 conveyed approval of the Government for air travel of the applicant and his wife from Guwahati to Chennai. The applicant's wife received review treatment at Apollo Hospital, Chennai from 23.5.2000 to 6.6.2000. The respondent No.3 had

16/11/2000

contd..3



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sanctioned Rs.30,000/- as medical advance and Rs.32,324/- as air fare. The attending physician Dr D..Das and Dr R. Sridharan of Apollo Hospital Chennai advised on 31.5.2000, 1.6.2000 and 7.6.2000 to take the patient for second opinion and treatment and also gave air travel certificate. The applicant and his wife ~~was~~ travelled by air to Delhi and the treatment continued from 8.6.2000 to 12.6.2000. The patient was advised to report after 3 months for review. The approval for travel to Chennai to Delhi and back is still awaited. After treatment at Delhi the applicant submitted the claim for medical advance and air fare for review treatment. The respondents did not allow the claim and the applicant moved another application being O.A.369/2000 on 31.10.2000. By interim order dated 31.10.2000 the respondents were directed to sanction T.A advance and also directed to not to recover Rs.19,742/-. The medical advance of Rs.48,000/- was sent to Indraprastha Apollo Hospital, Delhi by bank draft on 16.9.2000. The applicant's wife received necessary treatment from 7.11.2000 to 13.11.2000 and the treating physician Dr R.C.Arora advised the patient on 13.11.2000 to report after 3 months for review treatment. The applicant again applied for advance for review treatment which was due on 13.2.2001. The applicant sent reminders dated 15.3.2001 and 3.9.2001 alongwith the advice of Apollo Hospital Delhi. The respondents have not acted on the applicant's request. Finding no other alternative the applicant's wife moved a Writ Petition being numbered as W.P.(C) 3660/2001 on 24.5.2001 before the Gauhati High Court and the High Court was pleased to grant interim order with a direction to the

10/1/2001

10 respondents to sanction necessary advance within a week from the date of receipt of the order. The respondents filed a Misc. Case No. 816/2001 before the High Court stating therein that the applicant's wife had already filed series of applications before the Central Administrative Tribunal <sup>on this matter</sup> Because of the misrepresentation before the High Court the interim order dated 24.5.2001 was vacated. The respondent No. 3 directed the applicant to approach the Joint Director, CGHS, Guwahati to obtain essentiality certificate for travel by air. Accordingly the applicant approached the Joint Director, CGHS by fax on 27.4.2001 requesting him to examine the patient at her residence. Finding no response to the application dated 3.9.2001 the applicant submitted certificates from Dr Dilip Kr. Ghosal, DHMS dated 30.8.2001 and Dr J.K. Baruah, RMP dated 28.8.2001 who recommended that the patient should travel by air alongwith the attendant doctor. The applicant submitted that the advice of Homoeo practitioner was a legally valid and the same should be accepted by the respondents. The respondents by order dated 25.4.2001 (Annexure-Y to O.A. 479/2001) had started recovery at the rate of Rs. 2500/- per month. The action of the respondents has been challenged on numerous grounds. It is stated that the applicant has a legitimate right for treatment. The impugned orders not sanctioning the claim of the applicant on the ground of not producing essentiality certificate is contrary to the provisions of law and that the respondents have abused their powers in not providing the applicant of legitimate right of medical treatment. The arguments advanced on behalf of the applicant are :

- (1) That certificate from RMP and Homoeo practitioner

*U. U. Sharma*

contd..5

are acceptable. For this purpose reference was made to circulars dated 15.6.2001 and 17.8.2001. However on perusal to these circulars it is revealed that these pertain to sanction of leave and also related to the Non-Gazetted employees. Certificates issued by recognised medical practitioners may be accepted for sanctioning medical leave.

(ii) If the respondents are not competent to sanction the claim of the applicant the same may be referred to the Government.

(iii) The applicant has a fundamental right to be treated by any medical attendant.

2. The respondents have filed written statement. It is stated that on 15.9.99 the applicant was sanctioned Rs. 32000/- as medical advance and not Rs.30,000/- as mentioned by the applicant. The advance was sanctioned on the basis of an estimate of Dr R.Medhi, Assistant Professor, O & G, Gauhati Medical College, Hospital. A bank draft of Rs.32000/- was sent to Medical Superintendent, Apollo Hospital, Chennai and it was stated in the forwarding letter that a certificate should be given whether the patient can travel by rail or air and that the certificate was absolutely necessary. By fax dated 24.9.99 the Apollo Hospital informed the Accountant General (A&E), Assam that an additional amount of Rs.30000/- was required for continuing the treatment. Accordingly another bank draft of Rs.24,000/- being 80% of the estimate was sanctioned. However the said draft was held up on account of telephonic message from the applicant. The Hospital authorities <sup>were</sup> also asked to verify the facts and however no message was received from the Hospital. Meanwhile the applicant's wife was released from Hospital with advice to report back after 3 months. In no documents it has been stated by Hospital authorities that the treatment of the applicant's wife was suspended

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due to non receipt of additional amount of Rs.30,000/-.  
The respondents have filed Annexure-7 being advice dated 28.9.99 of the Consultant, Apollo Hospital. With regard to the representation dated 16.12.99 for follow up treatment. The applicant did not submit any fresh estimate for medical advance and essentiality certificate for air travel neither from Apollo Hospital nor from treating physician of GMCH. As the applicant is an employee covered by CGHS facilities he is required to take permission for air travel in terms of O.M. dated 7.4.99. The applicant was asked to submit estimate for medical advance and essentiality certificate to the effect that air travel was absolutely necessary. This was done by a letter dated 23.12.99 (Annexure-9). The applicant submitted an advice slip from Apollo Hospital (Annexure-10) which mentioned as "medically fit to travel by air". This was not treated as an essentiality certificate. The applicant did not obtain the approval of CGHS. The wife of the applicant had all along being treated as an outdoor patient. The patient undergoing OPD treatment is required to procure medicine from CGHS Dispensary. The applicant and his wife are not entitled to travel by air as per their entitlements. For air travel special approval of Government of India, Ministry of Health and Family Welfare is required. The applicant does not fulfil the essential requirements. When a reference was made to the Joint Director, CGHS the Joint Director, CGHS by his letter dated 21.1.2000 replied as under :

.....  
In the present context the certificate as given by Dr Medhi of GMCH that the patient is medically fit to travel by air and that two escorts are required for the patient is not sufficient. The referring doctor has to state that the patients present condition is not such that she can travel

*Usha*

by any other means of transport and air travel is absolutely essential in her case and also that two escorts are essential. Without the "absolute necessity" clause in the doctors advise slip the case for approval of air travel cannot be recommended to the Director CGHS for obtaining permission from the Ministry. Your office may therefore request Dr.R. Medhi to incorporate this in his advise slip - which we shall need to forward to the Ministry while recommending the case . . . . ."

The respondents also accordingly made reference to the treating physician Dr R.Medhi, who by his letter dated 24.2.2000 replied as under :-

With reference to your above mentioned letter I would like to say that air travel to Chennai is not absolutely necessary for Mrs Ajanta Gupta for her Gynaecological problems.

However, Mrs Gupta is having Neurological, Orthopaedic and Haematological problems and she is under treatment of Apollo Hospital, Chennai.

As I am not an expert in these fields of medicines, it is not possible for me to give an opinion regarding absolute necessity for air travel for her other diseases. Opinion may kindly be taken from Apollo Hospital, Chennai where she is treated."

The applicant had also produced a certificate dated 21.4.2000 from Dr R.N.Pathak who had recommended shifting of applicant's wife to Apollo Hospital, Chennai. The said advice was not certified by competent authority. The necessary expert doctors for treatment of applicant's wife was not available at Guwahati or nearby places like Calcutta. It is stated that this certificate was not filed by the applicant before the respondents. On the representation dated 26.4.2000 the applicant was asked to furnish tentative date of outward journey for follow up treatment so that the T.A advance by admissible railway class could be drawn. As per rules the applicant is supposed to obtain certificate from CGHS or the treating doctor of GMCH to permit air travel. By

10/11/2000

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a letter dated 28.4.2000 the applicant was informed about the reasons why air travel could not be sanctioned. On the basis of interim order dated 5.5.2000 in O.A.149/2000 an advance of Rs. 30,000/- was paid to Apollo Hospital through Bank draft for follow up treatment and Rs.33,324/- was paid to the applicant for air travel from Guwahati to Chennai and back. The above amount was sanctioned subject to the condition that in case the applicant was not able to satisfy the admissibility as per rules he would have to refund the amount with interest. Regarding the applicant's claim of examination by Dr Dilip Ghosal on 19.5.2000 it is stated that Dr Ghosal is a Homoeo doctor and as per his certificate he found the patient in a serious condition on the night of 28.4.2000 and advised to consult with the doctor of Apollo Hospital and to avoid long journey. The doctor found the patient in a serious condition on 28.4.2000 and the applicant intimated on 9.5.2000 that ~~he~~ the patient was in a serious condition. If the patient was in a serious condition she should have been hospitalised but no such thing happened. It is stated that the applicant was more interested in getting air travel and less concerned about the ailment of his wife. Moreover, if the patient was in a serious condition nobody <sup>would</sup> go to a Homoeopath. The illness of the applicant's wife is a fabricated one and not based on facts. The certificate of Dr Ghosal cannot be treated as an essential certificate for grant of air fare. The treatment of the applicant's wife was over at Apollo Hospital on 31.5.2000. She was prescribed medicines on 31.5.2000 and 1.6.2000. However, there was no reference on those dates for referring the case to Indraprastha Apollo Hospital, Delhi. On 2.6.2000 the applicant sent a fax to the respondent No.3 in connection with treatment at

Indraprastha Apollo Hospital, New Delhi. The patient was referred to Apollo Hospital on 7.6.2000 with the advice that she is fit to travel by air. The applicant produced a letter dated 6.6.2000 of the treating physician of Apollo Hospital, Delhi where nothing is mentioned about second medical opinion or air travel. The advice that she is fit to travel by air does not meet the essentiality criteria of air travel. Dr Mukul Verma of Indraprastha Apollo Hospital, New Delhi treated the applicant's wife from 8.6.2000 to 12.6.2000. He advised the patient to avoid long journey, travel by air (Annexure-N to the written statement of O.A.479/2001). This also does not meet the essentiality criteria as prescribed by Ministry of Health and Family Welfare O.M. dated 7.4.99. The certificates given by doctors are in ambiguous term. It is stated that the applicant was not authorised to collect unutilized amount of Rs.25,178/- out of medical advance of Rs.30,000/- for Apollo Hospital to meet his air travel expenses from Chennai to New Delhi and New Delhi to Guwahati. The applicant was required to refund the balance amount of Rs.19,472/- out of refund of Rs.25,178/- after adjusting Rs.5456/- as medical expenses at Indraprastha Apollo Hospital, New Delhi. The certificate dated 7.6.2000 of treating physician of Apollo Hospital, Chennai did not mention that the condition of the patient was deteriorating and she was in need of shifting to Indraprastha Apollo Hospital, New Delhi and she could not be treated at Chennai. The wife of the applicant had never been an indoor patient while at Chennai or Apollo, New Delhi. Had the condition of the patient been serious she would have been hospitalised. Thus the statement of deteriorating condition of the patient was a hoax to justify the grant of air travel

K. V. Shan

contd..10

advance. In the written statement it is stated that the applicant's bills should be examined and paid as per law and rules as admissible. The applicant has failed to follow the rules and had not complied with the requirements of the rules. It was also pointed out that sanction for air travel issued by Ministry of Health and Family Welfare dated 25.7.2000 was revised by a letter dated 28.9.2000 as under :

- .....
- (i) Payment of amount of air travel to Shri Gupta to and fro Guwahati-Chennai only as per the Hon'ble CAT's Order instead of Guwahati-Chennai New Delhi-Guwahati.
  - (ii) Submission of specific certification of the treating physician of Apollo Hospital, Chennai to the effect that the "air travel for the patient is absolutely necessary."
- ....."

3. The matter has been extensively heard and as mentioned above the learned counsel for the applicant as well as the applicant in person argued the case. The case was argued mainly on facts. Mr B.C.Pathak, learned Addl. C.G.S.C supporting the written statement specifically referred to the rules. He referred to CGHS rules and O.M. No.S-12012/4/97-CGHS(P) dated 7.4.99. He admitted that air travel is permitted in respect of non eligible persons and such permission is given by Ministry of Health and Family Welfare on the basis of recommendation of Director, CGHS. He also admitted that ex post facto approval can also be given. According to the learned Addl.C.G.S.C the applicant had misrepresented the facts before the Tribunal as well as the applicant's wife also misrepresented the facts in the Writ Petition filed before the High Court. While getting the interim order dated 5.5.2000 it had been stated on behalf of the applicant that the applicant's wife was



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in very serious condition and that in the absence of treatment she was in danger of her life. In the Writ Petition filed before the High Court the applicant's wife had suppressed the fact that similar issue was pending before the Central Administrative Tribunal by way of numerous applications. He further argued that the respondents have no objection in making the payment for legitimate claim of the applicant subject to the observation of the relevant rules. The applicant has deliberately not complied with the rules and the applicant's case deserves to be dismissed. Medical benefits are provided to Central Government employees as per Medical Attendance Rules as applicable. Rules are statutory in nature and are made to overrule arbitrariness and ambiguity. When rules are there rights and responsibilities of persons to whom rules are applicable are known. The exercise of discretionary power is reduced to a great extent when rules are framed. In the context of medical benefits, due to the existence of rules one knows it as to what facilities/benefits one is likely to get. The rules also provide for certain requirements which are to be observed by the beneficiaries to claim those benefits. There is no dispute that the applicant is a CGHS beneficiary. In a place where CGHS scheme is applicable, no option is given to the employee to opt out of the scheme. The applicant's wife had given an undertaking to claim the medical benefits as per Central Government rules applicable to the applicant. Having perused the record and having heard the counsel for the parties at length as well as the applicant there is no doubt in my mind that the nature of the treatment of the wife of the applicant was domiciliary. There was no

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case of any emergency. The patient required consultation and not hospitalisation. The record also shows that the patient had <sup>been</sup> ~~not~~ given only consultation. The patient's life was not at stake. The rules provided for dealing with such cases as well as cases requiring emergency treatment. Chapter 6 of the Compilation of CGHS Orders and Case Laws deals with the procedure for referral cases 'to recognised hospital'. The applicant's wife was referred to Apollo Hospital, Chennai. It is a case of referral treatment. Relevant portion of Chapter VI Para 2 (i), (v) and (vi) and para 4 are reproduced below :

- "2 (i) In case of SERVING GOVERNMENT SERVANTS, after the Specialist advises a procedure in writing, the permission letter for, taking such treatment in a CGHS recognised private hospital/referral hospital of choice in the same city, would be given by the parent department/Office of the employee.
- (v) In case the beneficiary, inspite of the facility being available in the another city, permission may be given, but in such cases TA/DA would have to be borne by the beneficiary himself/herself.
- (vi) For availing treatment outside the city of residence of a beneficiary, the permission of Director/Addl. Directors/Joint Director of the City would have to be obtained.
4. In case of beneficiary, inspite of facility being available in the city still chooses to get treatment in CGHS recognised Hospital in another city.

The power for grant of such permission are delegated to the Heads of CGHS covered cities both in respect of pensioners and serving employees, but without grant of TA/DA."

As per applicable TA rules the applicant is entitled to travel by train and not entitled to travel by air. However, air travel for medical purposes is admissible as per Chapter VI of the Compilation of CGHS Orders. The relevant part of the rule is reproduced below :

"Air Travel - Permission may be given by the Ministry of Health and Family Welfare on the basis of the recommendation of Director, CGHS."

10/11/2011

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Even there is a provision for ex-post-facto approval. Under normal T.A. Rules air travel is admissible to employees drawing a basic pay of more than Rs. 16,400/- per month.

Admittedly the applicant is drawing less than Rs. 16,400/- per month. Special provision is made for non entitled persons.

The relevant instruction is re-produced below :-

"Government may consider refund of air fare paid in individual cases on merits, provided they are satisfied that air travel was absolutely essential and that travel by any other means, i.e. by rail or road, etc. would have definitely endangered the life of the patient or involved a risk of serious aggravation of his/her conditions."

"Certificate required to claim T.A."

It is certified in writing by the authorised medical attendant or by the specialist to whom the patient was referred by the authorised medical attendant or by a competent medical officer attached to the hospital to which the patient was referred by the authorised medical attendant for medical attendance and treatment, that the journey was unavoidably necessary to obtain appropriate medical attendance and treatment under the relevant Medical Attendance Rules and Orders."

Under the relevant medical attendance rules simultaneous treatment in two or more systems of medicine is not permitted.

The relevant rule is re-produced below :

"Instances have come to notice where persons covered under the CS(MA) Rules, have received treatment simultaneously in more than one system of medicine. It has been decided that treatment for the same ailment should not be taken simultaneously in more than one system of medicine under the CS(MA) Rules, 1944. There is, however, no objection to treatment being received simultaneously in different systems of medicine for different ailments. If however, such treatment is being taken for other diseases, this should be done with the knowledge of the attending doctors of the other systems concerned."

There is a provision for advance T.A. also. The advance T.A. rules is reproduced below :

"Advance of travelling allowance to the extent admissible under these orders may be granted to Government servants at the discretion of the authority competent to sanction advance of T.A."

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on tour on production of a certificate in writing from the medical authorities mentioned in these orders to the effect that the Government servant or a member of his/her family has been advised medical attendance and treatment outside the station (name of the station at which the patient has been recommended medical attendance and treatment to be specified) in accordance with the relevant Medical Attendance Rules and orders."

Appendix X of Medical & Attendance Rules gives instructions for Government servant. Para 5 of the relevant instruction is reproduced below :

"At the time of leaving the hospital after treatment, please get the hospital bill and receipts, vouchers, essentiality certificate, etc., duly signed or countersigned by the authorised medical attendant or the medical officer in charge of the patient in the hospital, as the case may be, for the purpose of claiming refund of expenses incurred."

Appendix XIV gives the form of essentiality certificate to be produced for claiming reimbursement. Certificate B is applicable in case of patients who are not admitted to Hospital. The rules have been reproduced above to have a better understanding of the issue. The relevant rules shows that essentiality certificate by the authorised medical attendant is necessary. The "authorised medical attendant" has been defined in the rules and means a Medical Officer under the employ~~er~~ of Central Government. Thus it includes CGHS Doctors. Similarly <sup>for</sup> the travel by other than the entitled mode of transport, essentiality certificate is required to the extent that it was absolutely necessary for the patient to travel by other than the entitled class. The certificates produced by the applicant do not show that the travel by air was essential. The doctors have simply certified that the "patient is fit to travel by air." The type of certificates produced by the applicant do not meet the requirement of the rules applicable to the applicant.

No infirmity can be found in the order of the respondents in not accepting the certificates regarding air travel produced by the applicant. The applicant has not been able to satisfy me in the proceeding before me that the travel of ~~by~~ the patient by air was essential and that she could not be travelled by the entitled mode of transport as per her entitlement.

4. I have given a patient hearing to the submissions made by the applicant and on his behalf. The applicant filed O.A.149/2000 on 25.4.2000. On 5.5.2000 the applicant prayed for an interim order. It was submitted at that time that there was an emergency and the life of the applicant's wife was in danger. On consideration of the submission of the applicant, the respondents were directed to give an advance of Rs. 30,000/-. It was made clear in the interim order dated 5.5.2000 that if the applicant was not able to satisfy the claim under the rules he would refund the money with interest at the rate of ~~8~~<sup>12</sup>%. He was also not permitted to spend the unutilized amount. The discussion above shows that the applicant had misrepresented the facts ~~for~~<sup>for</sup> obtaining the interim order dated 5.5.2000. Not only that the applicant's wife ~~also~~ misrepresented the facts in the Writ Petition filed before the Hon'ble Gauhati High Court on 24.5.2001 and also obtained interim order. However, on 25.5.2001 <sup>when</sup> the correct facts were pointed out before the Hon'ble Gauhati High Court, the interim order was vacated. The respondents have been intimated the applicant the requirement of relevant rules by letter dated 23.12.99 (Annexure-9 to the written statement in O.A.149/2000). The applicant was informed about the requirement of the relevant rules. The letter is reproduced below for convenience :

"With reference to his representation dated 16.12.99 (received on 20.12.99), Sri Bimalendu Gupta, Sr. Acttt, is hereby asked to submit immediately a fresh estimate of Apollo Hospital, Chennai, required for the

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purpose of sanctioning of medical advance regarding follow up treatment of his wife Smt Ajanta Gupta.

As regards grant of TA for undertaking journey by air for the aforesaid purpose. it may be stated that it would not be possible to release the air travel advance without the specific certification of the treating physician of Apollo Hospital, Chennai to the effect that "Air Travel for the patient is absolutely necessary". The certificate referred to in your representation that the patient is "medically fit to travel by air", is only a certificate of fitness and cannot be treated a certificate of essentiality. Moreover, the approval of the Director, CGHS is also required for the said purpose.

In view of the above, he is asked to submit a fresh TA advance application for entitled Railway class for the proposed journey within 2(two) days from the date of receipt of this letter, for grant of TA advance. Further, in this connection, it may be mentioned that considering the gravity of the case and on the basis of Medical Certificate of the treating physician of GMCH, Air fare was granted provisionally subject to the approval of the competent authority. However, the matter has been taken up with the Joint Director, CGHS who in his letter dated 22.11.99 stated that the Air fare for the journey undertaken on the earlier occasion may not be reimbursed if the approval for the same is not received from the Director, CGHS New Delhi. As such his above mentioned air fare claim cannot be reimbursed until the receipt of the approval of the Director CGHS, New Delhi.

The release of Medical Advance of Rs.30000/- on an earlier occasion related to a different instance and cannot be automatically treated as having a bearing with the present proposal."

Again by letter dated 21.1.2000 of Joint Director, CGHS addressed to Senior Accounts Officer, office of the Accountant General the relevant rules were clarified to the applicant.

~~The letter is reproduced above.~~ The applicant produced a certificate issued by Dr Ghosal dated 19.5.2000 (Annexure-20 to O.A.149/2000). The recommendation of Dr D.Ghosal is reproduced below :

"This is to certify that Mrs Ajanta Gupta W/o Mr B.Gupta was serious on 28th April, 2000 and on call at 10 P.M. attend at her residence.

10 Usha

After examine she was advise to consult the Apollo doctors from whom she was taking treatment and also advised to avoid train journey which may fatal her life."

It may be noted that Dr Ghosal is a homoeo path. The certificate shows that he had examined the patient on 28.4.2000 at 10 P.M. and issued a certificate on 19.5.2000 that she should avoid train journey. The certificate given by Dr Ghosal is vague. It does not mention the nature of illness. It does not explain if he found the condition of the patient serious on 28.4.2000 why he recommended treatment at Apollo hospital on 19.5.2000. The discussion above shows that the attitude of the applicant was not cooperative. He wants to get benefit outside the rules. He does not want to follow the rules. During the course of proceeding the applicant filed a copy of letter dated 27.4.2001 addressed by him to the Accountant General. The letter is reproduced below :

"With reference to your i/c DAG(A) Memo No. Admn-II/BG-MDL/Pt.II/2001-2002/18 dated 20.4.2001 on the subject, I am to state that as per C&AG's letter you have made compulsory CGHS treatment and deducting contribution and and funding to CGHS Guwahati without my consent. Hence it is your duty and responsibility to get any information in regard to treatment as required from CGHS directly. It is further stated that in many occasions it is noticed that Shri R.I.Sen Gupta Welfare Officer initiate to do the needful, which is covered under duty and responsibility of the Welfare Officer, but in my case he is not acted accordingly. Kindly do the needful in this regard, to provide or depute specialist doctor of CGHS related to illness "Osteoporosia" and your required certification, without any lapse.

In regard to CAT order dated 29.3.2001 of O.A.No.298/1999 and 177/1998, the decision will be intimated to you."

16/1/2001

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A reading of this letter shows the non cooperative nature of the applicant. He was writing to the Accountant General to get the information regarding treatment from CGHS directly. The applicant has requested the Accountant General to depute a specialist doctor of CGHS to examine his wife. The reasons <sup>such</sup> for writing ~~for writing~~ letter addressed to Accountant General were known to the applicant himself. The applicant wants reimbursement of medical expenses incurred by him. The rules required reference to CGHS. It is open to the applicant to follow the procedure or not. It is not understood how the Accountant General will arrange for examination of applicant's wife by CGHS specialist. Instead of approaching the CGHS authorities the applicant has addressed this letter to the Accountant General. A copy of this letter had also been endorsed to Joint Director, CGHS. The applicant has also requested the Joint Director, CGHS to depute a CGHS doctor to his residence. It is not understood as to how <sup>when</sup> the applicant can take his wife to hospital in Chennai/Delhi. ~~He~~ was not in a position to take her to the CGHS Dispensary. The applicant has not been able to support his case for relief under the rules. No infirmity <sup>is</sup> found in the orders issued by the respondents regarding the applicant's claim for re-imbursement. The respondents are directed to dispose of the applicant's claim for medical reimbursement as per rules. As discussed above the applicant has not been able to satisfy in this proceeding why applicant's wife was entitled to travel <sup>a mode</sup> by ~~by~~ other than the entitled class. The applicant has not obtained necessary authorisation from competent authority. I am unable to give any relief to the applicant. The application is disposed of as above. The claim of the applicant will be settled as per applicable rules. All <sup>to</sup> interim orders contradictory ~~to~~ this order stand vacated.

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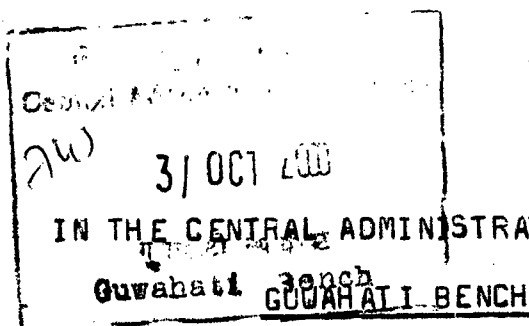


*✓ required ✓*  
The applicant will be ~~entitled~~ to refund the inadmissible amount with interest at the rate of 12%.

All the above applications are disposed of as above. There shall however be no order as to costs.

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Sd/MEMBER (ADMIN)



(An application under Section 19 of the Administrative Tribunal Act . 1985 )

O.A. No. 369/2000

Shri Bimalendu Gupta ..... Applicant

- Versus -

Union of India and others ... Respondents

I N D E X

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2.	A 2	Recovery order and Reject. Air fare	13
3.	A 3	Recovery order	14
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5.	A 5	Medical certificate dt. 12.6.2000	16
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7.	A 6 Q	CAT order dtd 5.5.2000 in OA No. 149/2000	18
8.	A 7	Delegation of power	23
9.	A 9	CGHS, Guwahati letter dtd 25.10.2000	26
10.	A 8	Delegation/grant of permission etc	24-25
11.	A 10	Govt. Approved of air journey vide letter dated 25.7.2000	27

For use in Tribunal's office

Date of filling:

Registration No.:

Registrar.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

O/A No. 369 /2000

Shri Bimalendu Gupta .... Applicant

- Versus -

Union of India & ors .... Respondents

PARTICULARS OF THE APPLICANT

- i) Name of the applicant : Shri Bimalendu Gupta
- ii) Name of father : Late Biswanath Gupta
- iii) Designation & office in which employed : Senior Accountant, O/o the AG (A&E) Assam, Moidamgaon Beltola Guwahati-29.
- iv) Office Address : O/o the Accountant General (A&E) Assam, Moidamgaon, Beltola, Guwahati-29.
- v) Address for service Notice : O/o the Accountant General (A&E) Assam, Moidamgaon - Beltola, Guwahati-29.

contd.....

Bimalendu Gupta

Filed by the Applicant  
through 29  
H.K. Dey

PARTICULARS OF THE RESPONDENTS

1. Union of India represented by the Secretary to the Govt. of India, Ministry of Health and Family welfare, (Department of health) Nirman Bhavan, New-Delhi-11.
2. Comptroller and Auditor General of India Bahadur shah zafar Marg, Indraprastha Head post office, Post Bag No-7. New-Delhi-2.
3. Accountant General (A&E) Assam, Moidamgaon, Beltola, Guwahati-29.
4. Addl. Deputy Director General (HQ) Directorate General of Health Services Nirman Bhavan, New-Delhi-11.
5. Deputy Accountant General (Admn.) O/o the Accountant General (A&E) Assam, Moidamgaon, Beltola, Guwahati-29.
6. Joint Director, Central Govt. Health Scheme, Ministry of Health and Family welfare, Pinaki Path, Zoo Tiniali Guwahati-3.
7. Senior Accounts officer i/c Establishment and Bills C/o. o/o the Accountant General (A&E) Moidamgaon, Beltola, Guwahati-29.

DETAILS OF APPLICATIONS

I. PARTICULARS OF THE ORDER/ORDERS AGAINST WHICH THE APPLICATION IS MADE.

This application is made against orders No. (i) Admn-II/BG-MDL/2000-81/505 dated 22.09.2000 issued by Shri Longjum Siddhartha Singh Deputy Accountant General (Admn) - Respondent No.5 directing the applicant to deposit the unutilised amount of Rs.19,742/- to the Govt. Account or else the said amount will be recovered from his monthly salary bill in 4(four) equal instalments. The Respondent-5 also refusing the sanction of to and fro Air fare to New-Delhi on medical advice.

*Birendra Singh*

contd.....

(ii) Order NO. Admn-II/BG-MDL/Pt-II/2000-01/437 dated 13.09.2000 issued by Shri Bijit Kumar Das Purkayastha, Senior Accounts officer i/c Estt and Bills- Respondent No.7 also directing the applicants- to deposit the said unutilised amount of Rs. 19,742/- which was collected from Apollo Hospital Chennai in cash without obtaining prior permission of the office of the Accountant General(A&E) Assam,-Respondent No.3 out of the medical advance Rs.30,000/- paid to the Apollo Hospital Chennai vide Bank Draft No.100021 dated 10.05.2000 in to the Govt. Account failing which the said amount will be recovered in 4(four) equal instalments from salary bill from Sept.,2000.

1. JURISDICTION OF THE TRIBUNAL :

The applicant declares that the subject matter of the instant application is within the jurisdiction of this Hon'ble Tribunal.

2. LIMITATION

The applicant declares that the application is within the limitation period prescribed under Section 21 of the Administrative Tribunal's Act., 1985.

3. FACTS OF THE CASE :

i). That your humble applicant is a citizen of India and as such as he <sup>is</sup> entitled to all the rights and privileges guaranteed in the constitution of India and presently he is the employee under the Respondent No.3 and is working as Senior Accountant stationed at Guwahati.

ii) That your humble applicant is a married one and has got his wife and a daughter. Under the CE (MA) Rules, 1944, the wife of the applicant is entitled to get the treatment cost from the Respondent No.3.

iii) That your humble applicant begs to state that his wife is suffering from "Osteopenia" and at present she is under the treatment of Indraprastha Apollo Hospital, New-Delhi. ~~Mentioned~~ may be made here <sup>that</sup> she was treated earlier thrice in the Apollo Hospital Chennai <sup>was</sup> and referred to same group of Hospital at New-Delhi.

Bimala Das Gupta

iv) That the applicant begs to state that as per advice of the Indraprastha Apollo Hospital, New-Delhi the wife of the applicant Mrs. Ajanta Gupta is to be hospitalised in the month of September, 2000 and accordingly your humble applicant approached the Respondent No.3 to sanction him Air Travel Advance as well as Medical Advance enabling her to proceed to New-Delhi with two escorts. Dr. Mukul Verma senior consultant, Neurology, who is treating the applicant's wife certifies that Mrs. Ajanta Gupta is to avoid long distance travel by Road or Train preferably travel by Air along with two escorts.

A copy of the said certificate dated 11.09.2000 is annexed herewith and is Marked as Annexure - A I.

v) That your humble applicant begs to state that the Respondent No.5 i.e. Deputy Accountant General (Admn) of A.G. A.G.(A&E) Assam vide his order dated 22.09.2000 has rejected the prayer of the applicant for Air Travel in Advance, alleging disobedience of order and directed him to submit a fresh proposal to travel by Rail. He has stated therein that the treating physician of applicant's wife at Indraprastha Apollo Hospital, New-Delhi has categorically stated that Air travel is not essential which is absolutely false and incorrect. In fact, the attending physician of the applicant's wife Dr. Mukul Verma of Indraprastha Apollo Hospital, New-Delhi has stated as follows; in reply of the Respondent No.7 letter No.Admn-II/474 dated 14.09.2000 used as FAX.

"I have remarked that the air travel and escorts will be preferred. I have not mentioned that this is essential" The Respondent No.5 also directed the applicant to intimate his office whether he has already deposited the unutilised amount of Rs.19742/- to the Govt.account as directed on 13.09.2000 vide letter No.Admn-II/BG-MDL/TA/Pt-II/2000-01/473 failing which the said amount would be recovered from his monthly salary bills in four equal instalments from October, 2000

Copies of letter dated 22.09.2000 and 13.09.2000 are annexed herewith and are marked as Annexure A 2, A 3.

vi) That your humble applicant begs to state that his wife is entitled to travel by Air for medical treatment on the advice of the attending physician dated 31.5.2000, 12.6.2000 and 11.09.2000.

The copies of the medical advice dated 31.5.2000, 12.6.2000 and 11.09.2000 are annexed herewith and are marked as Annexure A 4, A 5.

Bimalendu Gupta

contd.....

vii) That your humble applicant begs to state that his wife is a state Govt. employee serving under the Commissioner of Hills and Barak valley stationed at Guwahati. Under CS(MA) Rule, 1944 a joint declaration for preferring medical treatment claim under this Rule is necessary and this ~~has~~ certificate from the employer of his spouse has also been produced to the effect that she is not claiming medical facilities and Medical Allowance monthly as paid by the State Govt. in respect of his/her spouse and ~~their~~ family members.

viii) That your humble applicant begs to state that Rule 1(1) Journey by Rail/Road/Sea/Air of Appendix VII of the CS(MA) Rule, 1944 reads as follows:-

" Special provision - Government may consider refund of air fare paid in individual cases on merits, provided they are satisfied that air travel was absolutely essential and that travel by any other means, i.e., by Rail or Road, etc., would have definitely endangered the life of the patient or involved a risk of serious aggravation of his/her conditions."

It may be pertinent to mention here that the attending physician Dr. Mukul Verma has categorically advised the patient to undertake both ways journeys by Air considering her physical condition. Because journeys by Rail or Road would endangered her life as she is a patient of the disease of "Osteopenia". Since the Doctor of the patient has advised her to undertake the journey by Air it is, therefore, absolutely essential. Now it is for the Respondents to seriously consider the advice of the attending physician of the patient which is absolutely essential and to sanction Air fare both ways with two escorts for her journey accordingly.

The Respondents are supposed to interpret the advice of the attending physician on Merit and must not lay emphasis on the words ~~as~~ "absolutely essential" as provided in the Rule. It is, however, very much painful to add here that the Respondents are frequently giving emphasis on the very words "absolutely essential" and not on merit and refusing to sanction Air fare to the patient due to facts that the attending physician of the patient has not mentioned in the certificates that Air travel is absolutely essential. This is absolutely wrong and incorrect contention on the part of the Respondents which goes against the advice of the attending physician of the patient. This special provision of Appendix VII of CS(MA) Rule 1944 is meant for interpretation by the office/department and not meant for the Doctor to interpret. The Respondents must not ~~compell~~/dictate the doctor to put the words "absolutely essential" in his certificates.

Ramesh Chandra Gupta

Copy of the said Special Provision of Appendix -VII is annexed herewith and is marked at Annexure A 6.

ix) That the applicant begs to state that in pursuance of Hon'ble C.A.T. Guwahati Bench order dated 5.5.2000 of OA No. 149/2000, the applicant was granted by the Respondent No.3 i.e. Accountant General (A&E) Assam an amount of Rs.30,000/- for the treatment in favour of Apollo Hospital, Chennai and Rs.32,324/- for the Air fare from Guwahati to Chennai and back. The amount of 32,324/- is fully utilised by the applicant. Out of Rs.30,000 medical Advance, the Balance amount of Rs.24,000/- was refunded by the Apollo Hospital, Chennai to the applicant for treatment of his wife at Indraprastha Apollo Hospital, New-Delhi. On advice of Apollo Chennai, a Fax message was sent to the Respondent No.3 for sanctioning permission and payment of Air fare to New-Delhi and back to Guwahati; but no response was received from the Respondent No.3 & 5. Since the circumstances compelled the applicant to proceed to New-Delhi for his wife immediate treatment she could not wait for a longer period at Chennai for permission of Respondent No.3 or 5. As such, she had to proceed to New-Delhi immediately for her treatment. Thus, the amount that was refunded to the Applicant by Apollo Hospital, Chennai was fully utilised for her treatment and Air journey to New-Delhi and back to Guwahati. So, ~~no~~ no amount left unutilised with the applicant and, therefore, the question of refund of Rs.19472/- doesnot arise. The applicant has also ~~have~~ submitted to the Respondent No.5 the total claim in regard to treatment at Apollo Chennai and New-Delhi and Air fare final TA claim in time. The payment is still awaited. Under delegation of power to Head of office/Department by Min.of Health, CGHS, Guwahati No.A 60011/1/98-CGHS(Ghy)/40 dated 26.6.2000 and OM No.S.14925/7/2000-MS dated 28.3.2000 the Respondent No.3 is competent for granting permission for treatment/revalidation the permission granted earlier for a review positively on the recommended time and decide the cases of reimbursement of medical <sup>expenses</sup> in respect of treatment obtained in emergency subject to any limit on the total amount to be reimbursed vide letter dated 7.3.2000. The said deligation of power was intimated to the Respondent No.5 by Respondent No.6 vide letter Dated 25.10.2000.

Copies of letter dated 26.6.2000, dated 28.3.2000 dated 25.10.2000 are annexed herewith and marked as Annexure A 7, A8, and A9. a Copy of the order of the Hon'ble CAT is at Annexure A 6 Q.

Bimalendra Gupta

contd....



x) That your humble applicant begs to state that the Govt. of India, Min. of Health and Family Welfare have conveyed their approval to the air Travel of the applicant along with his wife to and from Guwahati- Chennai for her follow up treatment vide their order dated 25.07.2000.

A copy of the order dated 25.07.2000 is enclosed herewith and marked as Annexure - A 10

xi) That the humble applicant begs to state that the Respondent No.5 & 7 have sanctioned ~~an~~ medical advance of Rs.48000/- being the 80% of the estimated cost of Rs.60,000/- in favour of Indraprastha Apollo Hospital, New-Delhi vide letter No.Admn-II/Med.Adv./Vol-II/BG-MDL/TA/2000-01/551 dated 24.10.2000 through Bank Draft, but the Respondent No.3 & 5 have not sanctioned the Air fare etc., amounting to Rs.42,000/- to the applicant for journeys to and from New-Delhi for treatment of the wife of the applicant till date. It may be stated here that the applicant fixed on 17.09.2000, 10.10.2000, 23.10.2000 for his journey to New-Delhi but because of non-sanctioning of Air fare, the applicant has not been able to proceed to New-Delhi for treatment of his wife till date. Now the applicant has again fixed 3.11.2000 in consultation of attending Doctor of Apollo, New-Delhi for journey to new-Delhi for treatment of his wife and unless the Air fare ~~air fare~~ is received by him immediately, she will not be in a position to proceed ~~to~~ and as a result of this the medical treatment of his wife <sup>will</sup> seriously hamper and endangered her life due to slackness of Respondent No.3 and revangeful attitude of Respondent No.5 & 7.

xii) That the humble applicant begs to state that the Respondent No.5 & 7 vide their letters dated 22.9.2000 and 13.09.2000 have directed the applicant to deposit the unutilised amount of Rs.19,742/- in Govt. Account, failing which the said amount will be recovered from his monthly pay bill in four equal instalments. It may be added here that the said amount of Rs.19742/- which was refunded by the Apollo Hospital, Chennai to the applicant has already been utilised as stated earlier. It may further mentioned here that this position has already been stated in the Miscellaneous Petition No.OA 209/2000 in OA No. 149/2000 before this Hon'ble Tribunal which is pending for decision. Therefore, it is reiterated here that the question of giving refund of the unutilised amount of Rs.19742/- doesnot arise.

xiii) That the humble applicant begs to state that the Hon'ble Tribunal has observed in case the applicant is not able to satisfy the COURT regarding his claim as per Rules, he would refund the money with interest. In this connection, it may be stated here that the applicant has already furnished the

Bimalendu Gupta

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detailed expenditure in connection with treatment of his wife and essentiality certificate of the Apollo Hospital, Chennai and Indraprastha Apollo Hospital, New-Delhi of the amount of Rs.30,000/- and 32,324/- for treatment and Air fare in the Hon'ble Tribunal in connection with the MP No.209/2000 in OA No.149/2000 indicating that the above amounts have fully been utilised. The settlement and reimbursement of the claims are not yet made by the Respondents No.3 & 5. Therefore, the question of depositing the unutilised amount of Rs.19742 does not arise. An amount of outstanding claim amounting to Rs.62,000/- is still pending with for settlement in the office of the Respondent No.3

xiv) That your humble applicant begs to state that his wife is to be immediately hospitalised at Indraprastha Apollo Hospital for review of investigation/treatment at New-Delhi and she can only travel by Air as the patient of "Osteopenia"

xv) That your humble applicant begs to state that the Respondent No.7 has sanctioned Rs.48,000/- being 80% of estimate cost of Rs.60,000/- in favour of Indraprastha Apollo Hospital New-Delhi vide Bank Draft No.324177 dated 16.9.2000 handed over to the applicant on 24.10.2000 but has not sanctioned and paid the Air Fare of Rs.42,000/- for treatment of his wife journey to and from New-Delhi. Refusing to sanction the Air fare will result in miscarriage of justice and deprive the applicant of his valuable right guaranteed to him.

xvi) That your humble applicant begs to state that the action of the Respondent No.3 and 5 in not granting the Air fare and recovery of Rs.19742/- in four equal instalments from October, 2000 from the monthly pay bill of the applicant are without any application of mind. Such actions are, therefore, arbitrary and illegal.

4. GROUND FOR RELIEF WITH LEGAL PROVISION

13 1. For that the impugned orders appearing in Annexure 1 and A 2 are violation of CS(MA)Rule, 1944 and, as such, the same is unconstitutional and contrary to the decision of the Respondent No.1. Hence the same are liable to be set aside and quashed.

2. For that both the impugned orders are not tenable in law and same are liable to be set aside and quashed.

3. For that both the impugned orders are passed without any application of mind and same are liable to be set aside and quashed.

4. For that by both the orders, respondents have exceeded their jurisdiction and so both are to be declared illegal only on the point of jurisdiction.

Bimalendu Gupta

contd.....

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5. For that the applicant is entitled to get advance for Air Travel, refusal of which has resulted miscarriage of justice.

6. For that it is a fit case where this Hon'ble Tribunal can intervene in the interest of justice.

5. DETAILS OF REMEDIES EXHAUSTED:

The applicant further declares that he has already filed an OA No.329/2000 before this Hon'ble Tribunal which is pending for a decision and the same is fixed on 17.11.2000. Since the Respondent 5 has already refused to sanction Air fare to and from New-Delhi on 10.10.2000, 17.09.2000, 17.10.2000 and 23.10.2000 for treatment of his wife and that he has fixed again 03.11.2000 to undertake the journey to New-Delhi and if the Respondents do not sanction the Air fare/travel, it will endanger the life of the wife of the applicant who needs immediate review of treatment/investigations.

6. RELIEF(S) SOUGHT FOR

Under the facts and circumstances stated above, the applicant respectfully prays that the Hon'ble Tribunal be pleased to grant the following relief(s) to the applicant :

6(i) To direct the Respondents, particularly the Respondents No. 3 & 5 and 7 not to recover the amount of Rs.19742/- from his monthly salary bill in ~~four~~ four instalments commencing from OCTOBER, 2000.

6(ii) To direct the Respondents, particularly Respondents No. 3 & 5 to sanction the Air fare immediately so as to avoid the risk of life of the wife of the applicant. ✓

6(iii) To direct the Respondent No.3 & 5 to settle up the outstanding claim amount of Rs.62,000/- immediately.

6(iv) Any other relief/reliefs ~~are~~ this Hon'ble Tribunal considers fit and proper;

7. INTERIM RELIEF IF ANY SOUGHT FOR:

7(i) In the above premises, the applicant prays that the operation of Annexure A 2 and A 3 i.e. deduction of Rs.19,742/- from his salary from October, 2000 be STAYED.

7(ii) To direct the Respondents No. 3 & 5 to sanction Air fare amounting to Rs.42,000/- to and from New-Delhi with two escorts as the health of the wife of the applicant is in a deteriorating condition and there is a risk to her life.

Bimalendra Gupta

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8. The application is filed through Advocate.

9. PARTICULARS OF THE I.P.O.

i) IPO No. : 2 G 503772 for Rs.50.00  
ii) Date of issue : 28,10.2000  
iii) Issued from : Head post office  
Guwahati-1.  
iv ) Payable at Guwahati

10. LIST OF ENCLOSURES :

As stated in the Index

Verification .....

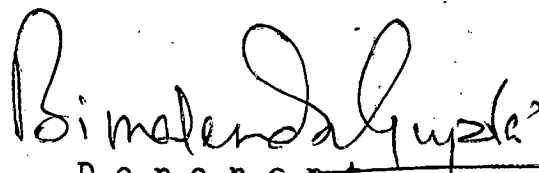
11

37

V E R I F I C A T I O N

I, Shri Bimalendu Gupta, son of Late Biswanath Gupta, aged 44 years, presently working as senior Accountant in the office of the Accountant General (A&E) Assam, Moidamgaon, Beltola, Guwahati -781 029 do hereby verify that the contents made in paragraph 4, 5, 6 8, 9, 10 are true to my knowledge and those made in paragraphs 1, 2, 3, 7, 11, 12, 13, are derived from records which I believe to be true and the rest are my humble submissions before this Hon'ble Tribunal. I have not suppressed any material facts in this case.

And I sign this verification on this 30<sup>th</sup> day of October, 2000 at Guwahati.

  
Deponent

...

12

11 September 2000

TO WHOM IT MAY CONCERN

Re : Mrs Ajanta Gupta, Hospital ID No. M10029221

This is to state that Mrs Ajanta Gupta is suffering from ? Osteopenia and is required to come to this hospital for investigations and review.

An amount of approximately Rs.60,000/- (Rupees Sixty Thousand only) would be needed for the investigations and hospital stay. She is also advised to avoid long distance travel by road or train ; it is preferable that she travels by air along with two escorts.

Raj Chaudhary

for DR MUKUL VERMA  
Senior Consultant - Neurology

WORLD CLASS HEALTHCARE

Address : Sarita Vihar, Delhi-Mathura Road, New Delhi-110044. Ph. :6925858, 6925801 Fax : 91-11-4823629.

SEP. 12. 2000 4:11PM P 1  
THC 10. : 011 6823629

FROM : APOLLO HOSP DELHI

13

Annexure - A-2 9

OFFICE OF THE ACCOUNTANT GENERAL ( A & E ), ASSAM,  
MAIDAMGAON :: BELTOLA :: GUWAHATI - 29.

Admn-II/BG-MDL/: 000-01/505

Date : 22.09.2000

With reference to his Advance T.A. proposal for Air fare, received at 3.00 p.m. on 22.09.2000. Shri Bimalendu Gupta, Sr. Acctt.. is hereby asked to submit a fresh Advance T.A. proposal for entitled Railway class as the treating physician of his wife at Indraprastha Apollo Hospital, New Delhi has categorically stated that Air travel is not essential, when a clarification was sought for on the certificate dt. 11.09.2000 obtained by Shri Gupta from Dr. Mukul Verma, Sr. Consultant, Neurology of Indraprastha Apollo Hospital, New Delhi. As such grant of T.A.Advance for Air fare proposed by Shri Gupta could not be entertained in terms of rule position of CS(MA) Rules 1944.

Further, he is asked to specify the tentative date of his outward journey from Guwahati to New Delhi, in connection with the review treatment of his wife, so that despatch of the Bank Draft drawn for Rs.48,000/- (80% of Rs. 60,000/- as per estimate submitted by him) in favour of Indraprastha Apollo Hospital., being the Medical Advance required for the purpose, may be made accordingly. ✓

Also he should intimate this office whether he has already deposited the un-utilised amount of Rs. 19,742/- to the Govt. A/c as directed vide this office letter Dtd. 13.09.2000, otherwise the said amount will be recovered from his monthly salary bill in 4 equal instalments.

Shri Bimalendu Gupta, Sr. Acctt. Deputy Accountant General(A)  
Record(C) Section  
Office of the A.G.(A&E), Assam,  
Guwahati - 29.

X. Siddhartha Singh  
उप महालेखा.र (ले. एवं इ.)  
Deputy Accountant General (A&E)

असम, गुवाहाटी -  
Assam, Guwahati.

27/9/00  
G.H.K. Das  
Advocate

14

Annexure A 3

10

OFFICE OF THE ACCOUNTANT GENERAL (A & E), ASSAM,  
MAIDANGAON : DELTOLA : GUWAHATI-29.

No. Admn-II/BG+MDL/TA/Pt.-11/2000-01/173 Dated 13-09-2000.

With reference to his representation dt.12-09-2000 (Received on 13-09-2000), Shri Bimalendu Gupta, Sr. Accountant is hereby intimated that Medical Advance of Rs.48,000/- being 80% on the basis of estimate of Rs.60,000/- furnished by the Indraprastha Apollo Hospital, New-Delhi has been sanctioned and asked to submit TA Advance proposal in prescribed Form. ✓

He is further asked to deposit the un-utilised amount of Rs.19,472/- which he collected from the Apollo Hospital, Chennai in Cash without obtaining prior permission of this office out of the Medical Advance of Rs.30,000/- paid to the Apollo Hospital, Chennai vide Bank Draft No.100021 dt.10-5-2000 in terms of Interim Order dt.05-5-2000 of Hon'ble CAT, Guwahati Bench for follow up treatment of his wife Smti Ajanta Gupta, immediately into the Govt. Account failing which the same will be recovered in 4(four) equal Instalments from his salary from September'2000. ✓✓

AUTHORITY :- D.A.G.(Admn.)'s order dt.13-09-2000 at P4 N in file No.Admn-II/BG+MDL/TA/Pt-II/2000-01

To,  
Shri Bimalendu Gupta, Sr. Acctt.  
Record(c) Section,  
O/o The A.G. (A & E), Assam, Guwahati-29.

[Signature]  
Sr. Accounts Officer(Admn.).

সিনিয়র অ্যাকাউন্ট অফিসার,  
Sr. Accounts Officer,  
অসম (এ & এ) অ্যাকাউন্ট জেনারেল  
O/o the Accountant General (A & E)  
অসম, গুৱাহাটী  
Assam, Guwahati.

Attested -  
[Signature] 30/10/2000  
C.H.K. Das  
Advocate



15

Annexure A4

ul

Dr. R. SRIDHARAN, M.D., D.M. (Neurp), MNAMS  
Consultant Neurologist

553658

Mrs. Ajitha Gupta 34 F

31/5/2000

Somnolent anxiety

Headache, nausea, dizziness, limbic system - normal

No Endocrine opinion.

Levothyroxine 25mg

1) Zolmitriptan 2.5mg daily 1 - x 3 months

2) Trileptal 1mg at bedtime 1 - x 1 month

c.s.p at bedtime 1 - x 1 month

c.s.p at bedtime 1 - x 1 month

Logical, healthy

3) c.s.p. Fexofenadine 1 daily 1 - x 3 months

4) Folic acid 5mg 1 daily 1 - x 3 months

5) Nerve pain 1 daily 1 - x 3 months

Neurologically fit for air travel.

Apollo Hospitals

21, Greaves Lane, Off. Greaves Road, Chennai - 600 008  
Tel : 8293333 / 8290200 Fax : 91-44-8266761 / 8234429

Regd. Office : 19, Bishop Garden, Chennai - 600 028  
E-mail: ahe@vsnl.com



Consult Neurologist  
Apollo Hospital

Dr. MUKUL VARMA  
M.D., D.M.  
Neurophysician

Annexure-A-5

Indraprastha Apollo Hospital  
Mathura Road, Sarita Vihar  
New Delhi 110 044  
Phone: 6925858, 6925801, Extn 1000  
Fax 91-11-6823629  
Consultation daily 9:00AM to 1:00PM

Apollo Clinic  
13 New Rajdhani Enclave, Vikas Marg  
Delhi 110 092  
Consultation: Thurs only 7:00 - 8:00 PM  
For appointment call 2222146, 2212825

Residence  
1376, Sector 37, NOIDA, 201 303  
Phone from Delhi: 91-4575440  
From outstation: 0118-4575440  
E-mail [mvarma@vsnl.com](mailto:mvarma@vsnl.com)  
By appointment only

8.6.00

Smt Ajanta Gupta,

? ? Chronic fatigue syndrome

R. Good protein diet

Tot Tryptomer (10)

1 tab at bedtime

Milbex

Tot Proctin (4mg)

1/2 tab TDS

Syp Haem

1 ty TDS

x 1 month

If no relief, add.

Tot Naproxen (250)

x 1 week

1 x BD

gla needs

void long journeys.  
travel by air.

Milbex

Milbex

% Body aches - since '93

Fatigue - "

Insomniac + head

ESR ↑ for long

Other tests - Normal

(AKL)

NE HMF

Speech

Hand Ns / N

No need night

Motor

Swing / N

Reflex

lost

ESR → 40 mm in 1 hr.

186.9.3 mg %

## APPENDIX VII

## TRAVELLING ALLOWANCE FOR MEDICAL ATTENDANCE AND/OR TREATMENT

## 1. General Instructions

The question of rationalization of the admissibility of travelling allowance under the Central Service (Medical Attendance) Rules, 1944 and the Central Government Health Scheme, had been under consideration of the Government of India. It has been decided in supersession of all previous orders and the provisions made in the Supplementary Rules or orders issued thereunder that Central Government servants and members of their families will be entitled to travelling allowance at the rates and under the conditions specified below for journeys undertaken by them to obtain appropriate medical attendance and treatment to which they are entitled under the aforesaid rules and orders issued thereunder.

## \* 1. Journey by rail/road/sea/air

The patient (whether Government servant or a member of his family dependent on him) and also his attendant (wherever recommended by the attending doctor) should be entitled to travelling allowance plus daily allowance for the period of journey undertaken by rail as per the entitled class or the lower class by which the journey is actually performed, road, sea (ship, steamer, etc.) and air (within the country) for obtaining appropriate medical attendance or treatment.

*\* Special provision.*—Government may consider refund of air fare paid in individual cases on merits, provided they are satisfied that air travel was absolutely essential and that travel by any other means, i.e., by rail or road, etc., would have definitely endangered the life of the patient or involved a risk of serious aggravation of his/her conditions.

It is clarified that the above decision is also applicable to the Central Government employees and/or their family members in Manipur, Nagaland, Mizoram and Meghalaya who are referred for treatment to Calcutta.

*To and fro air fare for treatment abroad.*—See Decision below Rule 11 in Section 1.

## \* 2. Journey by other means of conveyance

If the patient travels by means of conveyance, other than those specified in these orders or by his/her private conveyance, travelling allowance would be admissible to the extent otherwise admissible under these orders.

## \* 3. Certificate required to claim T.A.

Travelling allowance at the rates specified in these orders will be admissible only when—

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Annexure A-8Q

FORM NO. 4  
( See Rule 42 )

# In The Central Administrative Tribunal

GUWAHATI BENCH : GUWAHATI

ORDER SHEET  
APPLICATION NO. 159/2000

OF 199

Applicant(s) *Biswa Keshava Gupta*

Respondent(s) *Union of India and others*

Advocate for Applicant(s) *Mr. G. Sarmah*  
*Mr. G. Sarmah*

Advocate for Respondent(s) *C. G. S.*

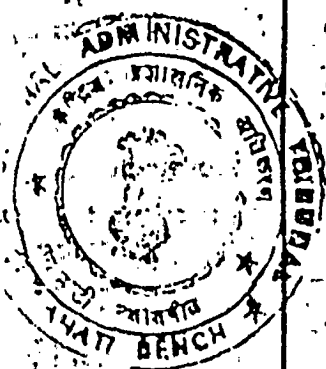


Notes of the Registry	Date	Order of the Tribunal
<p>1. The learned counsel for the applicant and Mr B.C. Pathak, learned Addl. C.G.S.C. for the respondents.</p> <p>2. Learned Counsel for the applicant, submits that as per direction of the Tribunal dated 25.4.00 the respondents have disposed of the representation of the applicant vide order dated 28.4.2000 (Photocopy of which has been produced before me today). The learned counsel for the applicant submits that the case of the applicant has not been examined by the concerned authority in the right perspective and have rejected the claim of the applicant by strictly following the rules and showing disregard to the immediate requirement of the treatment to save human life. He further submits that the applicant is a permanent employee of the department and is not a stranger. Consequently, if by bypassing the rules some money is granted to the applicant for emergent treatment of his wife even then the Government is not estopped from enquiring into the matter subsequently, after treatment. Therefore, the respondents be directed to release the amount for treatment of the applicant's wife including money necessary for her travel by air to Chennai alongwith two escorts for her assistance as per the requirement of her ailment. Opposing the submission of the learned counsel for the applicant, the learned Standing Counsel submits that while examining the case of the applicant for grant of advance as per the direction, the</p>	<p>25.5.00</p>	<p>1. The learned counsel Mr G. Sarma for the applicant and Mr B.C. Pathak, learned Addl. C.G.S.C. for the respondents.</p> <p>2. Learned Counsel for the applicant, submits that as per direction of the Tribunal dated 25.4.00 the respondents have disposed of the representation of the applicant vide order dated 28.4.2000 (Photocopy of which has been produced before me today). The learned counsel for the applicant submits that the case of the applicant has not been examined by the concerned authority in the right perspective and have rejected the claim of the applicant by strictly following the rules and showing disregard to the immediate requirement of the treatment to save human life. He further submits that the applicant is a permanent employee of the department and is not a stranger. Consequently, if by bypassing the rules some money is granted to the applicant for emergent treatment of his wife even then the Government is not estopped from enquiring into the matter subsequently, after treatment. Therefore, the respondents be directed to release the amount for treatment of the applicant's wife including money necessary for her travel by air to Chennai alongwith two escorts for her assistance as per the requirement of her ailment. Opposing the submission of the learned counsel for the applicant, the learned Standing Counsel submits that while examining the case of the applicant for grant of advance as per the direction, the</p>



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Registry	Date	Order of the Tribunal
	5.5.00	<p>department was duty bound to keep in consideration the relevant rules and after such consideration the order has been communicated to the applicant which is as per the rules. He further argues that the requirement of rule of furnishing essentiality certificate of treating Doctor of a Government Hospital or Central Government Health Scheme was necessarily required to be submitted by the applicant to claim the money for treatment and for air travel. But, the applicant has not submitted any such certificate and all what he has submitted is a certificate of a private Doctor and a certificate of a Doctor of Medical College and Hospital that the patient is fit to travel by air. Both these certificates are not sufficient to infer that the patient (wife of the applicant) is in a critical condition so as to need immediate shifting to Chennai for emergent treatment. In his submission the applicant is not entitled to advance for air travel.</p> <p>I have considered the rival submissions. At this stage I would not like to go into the merits of the case. No doubt, presently the record is not complete in respect of essentiality certificate of the Doctor for allowing the patient to travel by air, but if all what the applicant says is correct then we can infer that human life is in danger. The applicant being in permanent employment under the respondents, the welfare of his family members is also to be looked into and considered in the right perspective by</p>



2000

Notes of the Registry

Date

Order of the Tribunal

5.5.00




the department in which the applicant is presently serving. At this stage I would not like to go into the merits of the case regarding essentiality certificate, and need of the applicant to take his wife by air to Chennai, for treatment because any debate on this point might be causing prejudice to the case which could be argued at length at the appropriate time. Considering the urgency in the matter and in order to save human life, not strictly following the compliance of the rules, I would like to direct the department to grant the applicant Rs.30,000/- for treatment of his wife and money appropriate to allow him to travel with his wife by plane from Guwahati to Chennai and back and the question of entitlement of the applicant's travel by air could be looked into subsequently. As per the submission of the learned counsel for the applicant, it may be observed that in case the applicant is not able to satisfy the Court regarding his claim as per Rules, he would refund the money with interest. We may consider that this submission is made keeping in view the bonafide immediate necessity of treatment of the applicant's wife. Further, it may be observed that the applicant being in permanent Government employment with the respondents, the money could always be recovered from him if he is subsequently found not entitled to the same. One thing which should be kept in mind is that the applicant as per his status in the department and looking to his pay scale is entitled to travel by appropriate

*Signature*

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of the Registry	Date	Order of the Tribunal
	5.5.00	<p>Compliance of the order should be done within a period of seven days.</p> <p>List the case for written statement and further orders on 7.6.00.</p> <p>Copy of this order be delivered to the learned counsel for the parties for necessary compliance.</p>

Sd/MEMBER(J)

149/2000

Case No. 1334

Date

Copy for information and necessary action to:

1. The Accountant General (A&E) Assam, Maidamoon, Daitole, Guwahati.
2. Mr. B.C. Pathak, Addl. C. S. C. Central Administrative Tribunal, Guwahati Bench, Guwahati - 5.
3. Mr. G. Sharma, Advocate, Central Administrative Tribunal, Guwahati Bench, Guwahati - 5.

SECTION OFFICER(J)



Govt. of India,  
Ministry of Health & F.W.,  
D/o. General of Health Services,  
Central Govt. Health Scheme,  
Pinaki Path (7th By-Lane),  
Zoo-Naronghi Tindaia,  
Guwahati - 3.

No.A.60011/1/98-CGHS(Ghy)/40

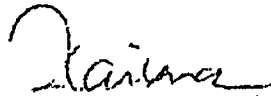
Dt.26-06-2000

C I R C U L A R

Sub : Delegation of power under CGHS reg. referral system, permission cases and ex-post facto approval - regarding.

Some Central Govt. Offices of Guwahati covered under CGHS queried certain points on the above matter. Clarifications of the same are given below :-

1. The Head of Department may grant permission to CGHS beneficiaries for treatment in any CGHS recognised Pvt. hospital within & outside Guwahati. For permission for treatment within Guwahati referral slips of CGHS doctors referring the patient to the specialist is required and for permission for treatment outside Guwahati the advice of the specialist to whom CGHS had referred the patient is essential.
2. Ex-post-facto permission for treatment in emergency at Pvt. Hospital/Pvt. Nursing Home/Pvt. Clinic can be decided by the HOD. For referring a patient outside the state, referral by a govt. specialist or specialist of a recognised hospital is must.
3. The HOD can revalidate the permission granted earlier by us on expiry of stipulated period of six months.
4. As per rule, a beneficiary should go for a review positively on the recommended time. If the period exceeds much beyond the stipulated time, the beneficiary may be asked for a review through CGHS doctor/govt. specialist for necessary opinion.
5. Number of attendant should not be more than what is recommended by the treating physician.

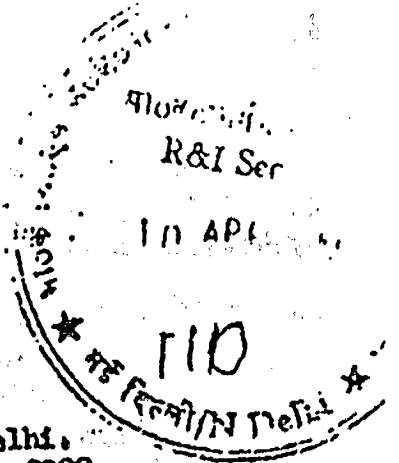
  
( DR. B. SAINIA )  
JOINT DIRECTOR.

24

Annexure A8

F.No.S.1425/7/2000-MS  
 Government of India  
 Ministry of Health & Family Welfare  
 (Department of Health)

Nirman Bhavan, New Delhi.  
 Dated the 28th March, 2000.



OFFICE MEMORANDUM

Subject:- Hospitals recognised by the State Govts./CGHS/CS(MA) Rules, 1944 - Grant of permission for treatment in any of the hospitals - Regarding.

\*\*\*

The undersigned is directed to say that the issue for grant of permission for treatment of Central Govt. employees and the members of their family in any of the hospitals recognised by the State Govt./CGHS Rules/CS(MA) Rules, 1944, had been under consideration of the Govt. for some time past. It has now been decided that the Central Govt. employees and the members of their families may be permitted to avail of medical facilities in any of the Central Govt., State Govts. hospitals and the hospitals recognised by the State Govt./CGHS Rules/CS(MA) Rules, 1944, as well as the hospitals fully funded by either Central Govt. or the State Govt. subject to the condition that they will be reimbursed the medical expenditure at the rates fixed by the Govt. under the CGHS Rules/CS(MA) Rules, 1944 or the actual expenditure incurred, whichever is less. In other words, the permission can be granted by the Head of the Ministry/Department/Office to the Central Govt. employees/members of their families to obtain medical services from any of the private hospitals recognised under CGHS in the 10 CGHS covered cities also.

2. If the treatment for a particular disease/procedure is available in the same city where the Govt. servant is employed, he may be permitted to avail of the medical services in any other city of his choice but in such cases, he will not be eligible for sanction of TA/DA. In case the treatment for a particular disease/procedure is not available at the same station, the beneficiary will be eligible for sanction of TA of his entitled class for taking treatment in a different city.

3. These orders will be effective from the date of issue.

4. This issues with the concurrence of Finance Division vide their Dy.No.757/2000-JS&FA(H) dated 15.2.2000.

5. Hindi version of the O.M. will follow.

*Brahma Dev*

( BRAHAM DEV )

UNDER SECRETARY TO THE GOVT. OF INDIA.

To.

1. All Ministries/Deptt. of the Govt. of India.
2. All Officers/Sections in the Ministry of Health and Family Welfare, New Delhi.
3. Dte. GHS (M.G. II Section) with 20 spare copies.
4. Office of the Comptroller and Auditor General of India, Bahadur Shah Zafar Marg, New Delhi.
5. DDG(M) / ADG(HA), Dte. GHS.
6. The Manager, Editorial Department, Swamy Publishers (P) Ltd., Sandhya Mansions, 164, R.K. Mutt Road, P.B. No. 2468, Raja Annamalaiapuram, Chennai - 600028.
7. CGHS(P) Section.
8. Guard File.

25

No.S-12020/4/97-CGHS(P)

Government of India,

Ministry of Health & Family Welfare,

( Department of Health )

----

Nirman Bhavan, New Delhi

Dated the 7th March, 2000.

OFFICE MEMORANDUM

Subject : Delegation of powers under CGHS relating to referral system, permission cases and ex-post-facto approval-  
of IV regarding.

The undersigned is directed to refer to this Ministry's Office Memorandum of even No. dated the 7th April, 1999 on the above subject and to say that to obviate the hardships being faced by CGHS beneficiaries, it has been decided to delegate powers to the Heads of Departments (HODs) in respect of Central Government Servants who are beneficiaries of CGHS in the following cases :-

a) A serving central Government servant covered under CGHS who is taking treatment in some CGHS dispensary/Govt. Hospital and desires to obtain treatment in a private hospital recognised under CGHS, the Heads of the Departments may grant him permission for indoor treatment on the basis of the medical prescription issued to the CGHS beneficiary.

b) The Heads of Departments (HODs) may decide the cases of reimbursement of medical claims in respect of treatment obtained in emergency at private hospital/private nursing home/private clinic, subject to item-wise ceiling as per rates prescribed for CGHS beneficiaries without financial limit on the total amount to be reimbursed.

2. These orders will come into effect from the date of issue.

3. The above orders are issued with the concurrence of JS(FW) vide Dy.No.761/2000-JS(FW) dated 16.2.2000.

Sd/-

( BRAHAM DEV )

UNDER SECRETARY TO THE GOVT. OF INDIA

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Annexure A-9

Govt. of India  
Dte. Gen. of Health Services,  
Central Govt. Health Scheme,  
Pinaki Path (7th Bye Lane)  
Zoo-Narengi-Tiniali,  
Guwahati - 781 003.

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No.D.12016/1/99(2)/ 2508

Date : 25.10.2000.

To,  
~~XXXX~~ The Dy. Acctt. General (Admn.),  
O/o the A.G. (A&E) Assam,  
Maidamgaon, Beltola,  
Guwahati - 781 029.

Sir,

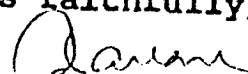
Please refer your letter No. Admn-II/BG-MDL/TA/Part-II/  
2000-01/546 dated 20.10.2000 para (3) addressed to Shri B. Gupta,  
Sr. Acctt., Record(c) Section (Local). Copy of which is recd. through  
Shri Gupta.

As the Ministry's memo regarding delegation of  
powers under CGHS relating to referral system is already conveyed  
by this office to you, the revalidation of permission of Smt. Ajanta  
Gupta may please be issued from your end.

A copy of the above mentioned memo is hereby enclosed  
for your ready reference.

Encls : A copy of the  
Memo.

Yours faithfully,



( Dr. B. Saikia )  
Joint Director.

H

Annexure-A-10

MOST IMMEDIATE  
COURT CASE

NO. C. 14012/14/2000-CGHS/D.I  
Directorate General of Health Services

M. Manu Bhavan, New Delhi

dated the 25th July, 2000

To

✓ The Joint Director,  
CGHS, Anandakuteer, Path, Zoo,  
Narangitenale, R.G. Barua Road,  
Guwahati-781 003.



Sub:- O.A. No. 149/2000, CAT Guwahati Bench Sh. Bimalendu Gupta  
V/s Union of India and others.

Sir,

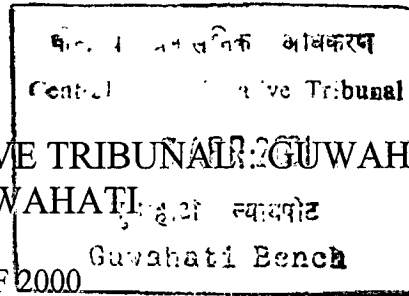
Please refer to your letter No. C. 12018/1/97-98/832 dated 16th June, 2000 on the above subject. I am to convey the approval of the Govt. to the air travel by Sh. Bimalendu Gupta along with his wife Smt. Ajanta Gupta to and fro Guwahati-Chennai for the follow up treatment of his wife.

2. This issued with the approval of JS(JA) vide Dy. No. 94-Court Case dated 14.7.2000.

Yours faithfully,

*[Signature]*  
25/7/2000

(DR(MRS) L. NONGPIUR)  
ADDL. DEPUTY DIRECTOR GENERAL (HQ)



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: GUWAHATI  
BENCH AT GUWAHATI

O.A. No.369 OF 2000

Sri Bimalendu Gupta - Applicant.

VS

Union of India and others - Respondents

Filed  
3/4/2001  
Addl. Central Gov. Standing Counsel  
Central Administrative Tribunal  
Guwahati Bench : Guwahati

IN THE MATTER OF

(Written Statements filed by the Respondents 1 to 5 & 7)

The written statements of the above named respondents are follows :-

1. That a copy of the O. A. No. 369/2000 (referred to as the "application") has been served on the respondents. The respondents have gone through the same and understood the contents thereof. The interest of all the respondents being common and similar, common Written Statements are filed by all of them
2. That the statements made in the application which are not specifically admitted by the respondents, are hereby denied.
3. That the applicant is a beneficiary under the Central Government Health Scheme (in short CGHS) and as such he is entitled to get all medical facilities under the said scheme read with provisions of Central Services (Medical Attendance) Rule, 1944. But the applicant in mis-interpretation of the provisions of those CGH Scheme, refused to come under the Scheme and challenged the application of the CGHS as is applicable to him by filing the O.A. No. 298/99. The said O.A was heard by this Hon'ble Tribunal and has finally dismissed being devoid of any merit.

(A copy of the order dt. 29-03-2001 passed in O.A. No.298/99 is annexed  
as Annexure-R 1)

4. That with regard to the statements made in para 1 of the application regarding recovery of un-utilised Medical Advance amounting to Rs.19742/-, the respondents state that as per CS (MA) Rules read with CGHS, the respondents are bound by rules to send such advance money direct to the attending private recognised hospital

against the estimate submitted by such hospital. In case, the money remains un-utilised, it is the duty of such hospital to refund the money directly to the respondents Department. In no case, such money is to be paid / refunded to the beneficiary / applicant. But in the instant case, both the hospital and the applicant flouted the rules and got the money refunded and used for some other purpose. The rules are also clear that money sanctioned under the head "Medical Advance" can not be spent under the head "Travelling Allowance" which is an offence and one is answerable under the law".

So far as the "air travel" is concerned, the provisions of rules in CGHS and CS (MA) Rule are clear. The applicant not being a category of employee entitled to air travel under TA rules, he is also not entitled to air travel under the CGHS and CS (MA) Rules. The exception to this rules is that air travel is permissible only in cases where air travel is absolutely essential and that travel by any other means that is by Rail or Road etc would have definitely endangered the life of the patient or involved a risk of serious aggravation of his/her conditions. For availing this benefits, an applicant is also required to consult the CGHS medical attendant and obtain a certificate after his examination of the patient and with the said certificate prior permission is to be obtained from the Ministry of Health & Family Welfare on the basis of the recommendation of the treating physician and Director of CGHS ( including essentiality certificate). In case of emergency where prior permission could not be taken, there are provision for ex-post- facto approval for air travel undertaken for medical treatment. Such ex-post -facto approval is to be obtained from the Ministry of Health & Family Welfare only. But in the instant case, the applicant did not follow any such rules and now demanding sanction / approval detours the rules.

As stated above, the application is liable to be dismissed with cost.

5. That the answering respondents have no comments with regard to the statement made in para 1 & 2 and 3 (i), 3 (ii) and 3 (iii) of the application.

6 That with regard to the statements made in para 3 (iv), the respondents state that the Air fare to and from Guwahati to New Delhi was not sanctioned to Shri Bimalendu Gupta as Dr. Mukul Verma of Indraprastha Apollo Hospital, New Delhi and treating physician of Smti Ajanta Gupta categorically denied the essentiality of air travel for the patient vide his letter dt. 18-09-2000 (Annexure <sup>R-2</sup> 4) when a clarification was sought about



his certificate dt. 11-09-2000 (Annexure - <sup>R-3</sup>2) the copy of which was also endorsed to Shri Gupta on 17-10-2000 (Annexure - <sup>R-4</sup>4).

7. That with regard to the statements made in para 3 (v), the respondents state that as per proviso 4 & 5 under Rule - 2 in chapter 2 of CS (MA) Rule, 1944, Medical Advance is paid direct to the concerned Hospital and any excess / short expenditure is settled between concerned Head of Office and Hospital Authority.

But Shri Gupta somehow convinced the hospital authority at Chennai and managed to draw the un-utilised amount of Rs.25,178/- in cash and out of this amount, utilised an amount of Rs.5,436/- towards treatment and investigation at New-Delhi to obtain second Medical Opinion in connection with his wife's treatment as referred to by the Apollo Hospital, Chennai. However, even the balance amount of Rs. 19,742/- was not deposited to the Government Account by him. As such the recovery of Rs.19,742/- was ordered from his pay.

8. That with regard to the statements made in para 3 (vi), the respondents state that according to Shri Gupta's official status, his wife is not entitled to travel by Air - unless a specific certification of treating physician is furnished to the effect that "Air travel is absolutely essential for the patient" in terms of CS (MA) Rules, 1944 and CGHS, Shri Gupta could not produce any such certificate as required under rules. Instead the treating physician issued certificates stating as "She is fit to travel by Air", "Medically fit to travel by Air". Even the Hon'ble CAT noted this in its Interim Order dt. 05-05-2000 stating that "these certificates are not complete in respect of essentiality certificate of the Doctor for allowing the patient to travel by air". As such his wife was not found entitled to travel by Air.

A copy of Dr. Mukul Verma's letter dt. 18-09-2000 ( Annexure - <sup>R-2</sup>4) may be referred to in this regard.

9. That the statements made in para 3 (vii) of the application are pertaining to records only; hence are limited to such records only.

10. That with regard to the statements made in para 3 (viii) of the application, the respondents state that the applicant has made the entire matter more complicated as he

did not follow the rules of CGHS and CS (MA) Rules relating such referral cases and advances for medical treatment and air travel.

As per CGHS Rules, the applicant requires to consult the Doctors of CGHS or call him to applicant's residence if patient is too ill to travel and then to go ahead as directed by such CGHS Doctors including if referred to such specialised treatment elsewhere. Dr. Mukul Verma of Indraprastha Apollo Hospital, New Delhi in his revised letter dt. 18-09-2000 did not certify the essentiality of Air travel and as such Air fare was not considered (Annexure <sup>R-2</sup> - 2). Further, Smti Ajanta Gupta has always been stated to have been in a critical condition only by her husband Shri Bimalendu Gupta. However, no Doctor / Hospital, whenever and to whichever she was referred to for treatment, ever certified her to be in critical / serious condition..

From the records/papers received from Shri Bimalendu Gupta in this regard, it appears that all along she has been and is being treated in the Out Patient Department only and was never hospitalised from September'99 to till date, even for a day till filing this application to Hon'ble CAT, Guwahati Bench, which does not justify the statement of Shri Gupta regarding the critical condition of the patient. In case of Out Patient Department treatment the applicant is also not entitled to reimbursement of all medical expenses. Further, the following evidences produced by Shri Bimalendu Gupta would make it abundantly clear the above contention.

One Dr. Dilip Ghosal, DHMS, private Homeopath, Guwahati examined her "in a state of serious condition" at 10.00 p.m. on the night of 28-04-2000 and advised consultation with Doctors of Apollo Hospital, Chennai and to avoid train journey. The Hon'ble CAT may find it surprising to note that the certificate was signed by the Doctor and submitted by Shri Gupta on 19.5.2000 (Annexure <sup>R-4</sup> 3). But it is not stated by Shri Gupta why he has taken 20 days time to intimate the seriousness of the case on 19.5.2000 instead of on 29.4.2000, the day following the day she was stated to have been in a state of serious condition. The reason for Smti. Ajanta Gupta not being hospitalised in such extreme situation prior to her departure to Chennai on 21.05.2000 is not known. It appears from the above fact that Shri Gupta is more interested in getting Air fare and less concerned about the ailment of his wife.

<sup>R-5</sup>  
In the advice slip dated 21.4.2000 (Annexure 4) of Dr. R.N. Pathak, Guwahati Medical College Hospital, it was stated that "as per advice of the Doctors of Apollo

Hospital, Chennai, she should report at the earliest". From this advice slip, it is clear that Dr. Pathak advised the patient to move to Chennai without examining the patient only on the basis of advice of the Apollo Hospital and so did Dr. Medhi of Guwahati Medical College Hospital on his advice slip dated 10.1.2000 (Annexure <sup>R-6</sup> 5) on which Shri Gupta is putting so much emphasis but subsequently revised this vide his letter dated 24.2.2000 (Annexure <sup>R-8</sup> 5-A) which Shri Gupta did not produce to the Hon'ble CAT even though the same was endorsed to him on 7.3.2000 (Annexure <sup>R-9</sup> 5B). The certificate dated 11.9.2000 by Dr. Verma of Indraprastha Apollo Hospital, New Delhi was also issued without examining the patient. While the patient is at Guwahati, the Doctor is not in a position to judge the essentiality of Air travel from far off Delhi. It is not clear as to why Shri Gupta did not approach the treating physician of CGHS or Guwahati Medical College Hospital in this regard instead of obtaining Dr. Verma's above said certificate over Fax. These above certificates did not indicate the seriousness of any ailment that merited consideration for Air travel.

It would not be out of place to mention that Smt. Ajanta Gupta was released on 31.5.2000 (Annexure <sup>R-10</sup> 6) by Dr. R. Sridharan duly prescribing medicines etc. from Apollo Hospital, Chennai. Again on 1.6.2000 (Annexure <sup>R-11</sup> 7) Dr. Deepak Arjundas also prescribed some medicines and advised to inform "her condition on 1<sup>st</sup> July 2000" and "the next review as family Doctor decides" on his advice slip. But none of the above Doctors advised her for 2<sup>nd</sup> Medical opinion at Delhi. The reference to Indraprastha Apollo Hospital, New Delhi was made on 7.6.2000 (Annexure <sup>R-12</sup> 8) but it is observed that on 2.6.2000 (annexure <sup>R-13</sup> 9) Shri Gupta had sent a Fax message praying for grant of Air fare for journey from Chennai to New Delhi. It is surprising as to how Shri Gupta came to know on 2.6.2000 that Smt. Ajanta Gupta, who was already released from OPD (Neurology) on 31.5.2000 would be referred to New Delhi on 7.6.2000 and prayed for Air fare as such. To confirm the fact, the matter was taken up with the hospital authority by this office on 2.6.2000 (Annexure <sup>R-14</sup> 9A) over Fax but without any response from their end till date.

Regarding essentiality certificate, a reference maybe drawn to a case where the Doctors of Indraprastha Apollo Hospital, New Delhi specifically advised the husband of one Smt. Banti Rani Haloi, Sr. Accountant of this office, that "Air travel essential with escorts" (Annexure <sup>R-15</sup> 10) when the said patient had undergone Kidney transplantation there. Since the above certificate meets the requirement of Rules, the case was forwarded for approval of the Competent Authority for grant of Air Fare. But in Shri Gupta's case, the

doctors had not advised Air travel as essential. Therefore, Gupta's allegation of laying emphasis by this office on the words "absolutely necessary" is baseless. It appears from the above case that Doctors are well aware what they should advise according to the official requirement, therefore, the question of dictating/compelling the Doctors to write advice slip in official terms does not arise.

11. That with regard to the statements made in para 3 (ix) of the application, the respondents state that as per interim order dated 5.5.2000 of Hon'ble CAT Shri Gupta was sanctioned Air fare for Rs. 32,324/- with one escort and Medical Advance of Rs. 30,000/- on the basis of the estimate received from the concerned treating physician.

Out of Rs. 30,000/-, Shri Gupta incurred an expenditure for Rs. 10,258/- altogether at Chennai and New Delhi and he is supposed to return the un-utilized amount of Govt. money for Rs. 19,742/- to the Govt. A/cs as per existing rules. But he did not do so despite being asked repeatedly. However, it appears from the final T.A. bill preferred by him that the above said balance of Medical Advance was utilised for Air journey from Chennai to new Delhi where his wife was recommended to obtain the second medical opinion from Indraprastha Apollo Hospital, New Delhi by Apollo Hospital, Chennai.

In this context, it may be mentioned that Shri Gupta without obtaining prior permission/approval of the competent authority, mis-utilized the medical Advance for Air journey. Such diversion of fund from one purpose to another without the consent of authority concerned violates rules in this regard and tantamounts to financial irregularity. Further, Shri Gupta had sent a fax message praying for grant of additional Air fare for travel by Air to New Delhi but never mentioned in his fax message regarding temporary diversion of Medical Advance granted to him for his wife's treatment to be utilized for Air fare (Annexure 9)<sup>813</sup>

Moreover, as per proviso 5 under Rule 2 in Chapter 2 of CS (MA) Rules 1944, Medical Advance is paid directly to the concerned hospital and in case of shortage/excess, adjustment is made in the final Bill submitted by the hospital authority. The payment of Medical Advance direct to the hospital is made as per existing rules. But in the instant case, Shri Gupta somehow drew the un-utilised portion of Medical Advance from the hospital authority in violation of Rules in force and utilised the same for another purpose. This

office, therefore, asked him to refund the un-utilised portion of Medical Advance of Rs. 19,742/- to Govt. A/c. but he did not do so. <sup>b1</sup>

Again as per direction of the Hon'ble CAT / proviso to CS (MA) Rule, 1944 for Air travel, Shri Gupta was to produce the essentiality certificate required under rules and to satisfy the Hon'ble CAT, Guwahati Bench as well to get his air fare reimbursed.

But he failed once again to produce the said certificate till date. Hence, his final claim could not be settled as yet. In this regard, G.O.I letter No. C.14012/14/2000-CCGHS/D I dated 28-09-2000 ( <sup>R16</sup> Annexure <sup>16</sup> ) may also kindly be referred to. A copy of which was endorsed to Shri Gupta on 20-10-2000 (Annexure - <sup>R17</sup> 17).

Permission granted for treatment of his wife has already been revalidated by this office on receipt of his application. However, for treatment of his wife in May'2000 he has not obtained necessary permission from the concerned CGHS by then and treatment obtained without proper permission may not be reimbursed for violation of the existing instruction of the CGHS.

12. That with regard to the statements made in para 3 (x) of the application, the respondents state that the order conveying approval for air fare by the Ministry of Health & Family Welfare, New-Delhi dt. 25-07-2000 was subsequently revised by the Ministry itself after thorough examination of the relevant papers submitted so far by Shri Gupta. It was instructed by the Ministry that "Air fare can be reimbursed" - only on the basis of essentiality certificate supposed to be produced by Shri Gupta (Annexure - <sup>R16</sup> 16).

13. That with regard to the statements made in para 3 (xi), the respondents state that Medical advance of Rs.,48,000/- (80% of Rs.60,000/- ) was sanctioned to him immediately on receipt of his proposal for the same on 12-09-2000 (Annexure <sup>R18</sup> 18 & <sup>R19</sup> 19) and he was asked to apply for fresh TA proposal for entitled Railway class as Dr. Mukul Verma of Indraprastha Apollo Hospital, New- Delhi denied the essentiality of Air travel. But he did not complied with this office order. Hence, the delay caused in releasing TA advance was due to his fault and not because of this office.

14. That with regard to the statement made in para 3 (xii) of the application, the respondents state that when recovery was already underway from the Pay Bill of October'2000, he moved the Hon'ble CAT, Guwahati Bench once again to get a stay order on 31-10-2000, the date of disbursement of salary. However, to honour the order of the Hon'ble CAT, recovery was stopped forthwith.

15. That with regard to the statements made in para 3 (xiii), the respondents state that the case is now sub-judice and his claims will be settled on receipt of the final verdict of the Hon'ble CAT thereon; and/or as per rules, as applicable at present.

16. That with regard to the statement made in para 3 (xiv), the respondents state that the Doctor is the best judge to decide the essentiality of Air travel but the treating physician of Smti. Ajanta Gupta denied the essentiality of Air travel in his letter dt. 18-09-2000 (Annexure - <sup>R2</sup> ①)

17. That with regard to the statements made in para 3 (xv), the respondents state that the respondents granted Air fare as per Interim Order dt. 05-05-2000 for Rs.40,000/-.

18. That with regard to the statements made in para 3 (xvi), the respondents state that the action taken has been as per existing rules/instructions in force but the applicant is seemingly intent on not to abide by any rules. It may be reiterated that the Accountant General is not empowered to sanction the Air fare without the approval of the Ministry of Health & Family Welfare, New-Delhi and all the papers related to the medical treatment of Shri Gupta's wife were sent to the Ministry concerned /CGHS. The Accountant General is acting only on the advice of the Government of India. Therefore, the question of arbitration, coercion as alleged by Shri Gupta does not arise in this regard. As explained here in above and under the rules, the application is liable to be dismissed with cost.

19. That with regard to the statements made in para 4.1 to 4.6 of the application, the respondents state that the grounds as shown by the applicant, are no grounds at all in the eye of law. Hence, the application is liable to be dismissed with cost.

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20. That with regard to the statements made in para 5 of the application, the respondents state that the applicant has filed several cases on the same issue vide O. A. No. 149/2000, 298/99, 329/2000 and this instant case.

21. That with regard to the statements made in para 6 (i) to 6(iii) of the application, the respondents state that the applicant is not entitled to get any relief as prayed for and the amount paid to him is liable to be refunded with interest.

22. That with regard to the statements made in para 7(i) and 7(ii) of the application, the respondents state that on the basis of the rules and Schemes, the applicant is not entitled to any relief whatsoever and the Interim order is liable to be vacated or modified as per rules.

In the premises aforesaid, it is therefore prayed that Your Lordships would be pleased to hear the Parties, peruse the records and after hearing the Parties and perusing the records shall further be pleased to dismiss the application with cost.

### V E R I F I C A T I O N

I, Shri **HOVEYDA ABBAS**, presently working as Deputy Accountant General (Admn.), being competent and duly authorised, do hereby solemnly affirm and state that the statements made in para. 1 to 3, 4, 5, 7, 9, 14 to 22 are true to my knowledge and belief, those made in para 3, 6, 8, 10, to 13, being matter of records, are true to my information derived therefrom and the rest are my humble submission before this Hon'ble Tribunal. I have not suppressed any material facts.

And I sign this verification in the 3<sup>rd</sup> day of April, 2001 at Guwahati.

**Hoveyda Abbas**  
Deponent.  
उप महालेखाकार (प्र०)  
Dy. Accountant General (Admn.)  
महालेखाकार का कार्यालय (ले० एवं ह०)  
O/O the Accountant General (A&B)  
असम, गुवाहाटी  
Assam. Guwahati

(10)

SL. No. 20/  
ANNEXURE-RB<sup>4</sup>

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 298 of 1999.

Date of Order : This the 29th Day of March, 2001.

The Hon'ble Mr Justice D.N. Chowdhury, Vice-Chairman,

The Hon'ble Mr K.K. Sharma, Administrative Member.

Shri Bimalendu Gupta,  
Senior Accountant,  
Office of the A.G. (A&E)  
Assam, Beltola, Guwahati-29.

Applicant

By Advocate Shri H. Kumar.

- Versus -

Union of India & Ors.

Respondents.

By Sri B.C. Pathak, Addl. C.G.S.C.

ORDER

K.K. SHARMA, ADMN. MEMBER

By this application the applicant has challenged Office Memorandum No. S-11011/6/92-CGHS Desk-I/CGHS(P) dated 4.8.91 issued by the Ministry of Health & Family Welfare and has objected to the monthly subscription being deducted from his salary towards CGHS. He has also challenged the order No. DAO(A)/PC/BC/151 dated 4.12.98 treating the period of absence from 27.9.98 to 12.11.98 as 'Dies non'.

2. The applicant is a Senior Accountant working in the office of the respondent No. 3, Accountant General (A&E), Assam, Guwahati. The applicant prays that he should be entitled to the facilities under Central Civil Service Medical Attendance Rules. The Medical reimbursement scheme was suspended by the Government with the introduction of CGHS Scheme by order No. S 11011/6/92-CGHS Desk-I/CGHS(P) dated 4.8.94. As per this scheme the applicant is supposed to pay monthly subscription to the respondents whether



he or his family suffers any illness or not. It is submitted that the subscription is to be paid even if the employees resides beyond 3 to 5 K.Ms of the CGHS Dispensary. It is claimed that no identity card is issued if the employees resides beyond 3 to 5 K.Ms from the CGHS Dispensary. The respondents have curtailed the medical facilities for employees who want treatment under systems other than allopathic. The applicant has prayed for stopping of realisation towards CGHS and to allow him the facility of treatment under CCS Medical Attendance Rules 1944. The applicant had earlier approached this Tribunal in C.A.177/98, which was disposed of with the direction to the respondents to dispose of the representation of the applicant. The respondents have disposed of the representation of the applicant by order dated 9.10.98 treating the period of absence from 27.9.98 to 12.11.98 as dies non. It was stated before us that during this period he has also attended some Hindi classes, which period could not be treated as absence.

3. The respondents have stated that the Medical reimbursement scheme has been replaced by CGHS Scheme which is applicable at Guwahati from February 1996. The CGHS authorities have at no stage stated that the facilities are available only to those employees who reside within 3 to 5 kms. from the location of the dispensary. The so-called circular<sup>too</sup> was issued only a guideline to the Heads of the department for allotment of CGHS dispensary for the convenience of the employees with the idea that the employees are allotted a dispensary near their residence. It is stated that in places like Delhi, Mumbai, Calcutta, Chennai facilities for treatment under Homeopathic/Ayurvedic/Unani/Siddha systems are also available. Guwahati being new establishment no unit of



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system other than allopathy has been introduced. However, employees can take treatment under any other system from State Government recognised institutions. The respondents have objected to the applicant's <sup>claim for</sup> multiple reliefs on unconnected matters.

4. The objective for which the CGHS Schemes are introduced are as follows :

- "(i) To provide comprehensive medical care facilities to the Central Government employees/pensioners and members of their families.
- (ii) To avoid cumbersome system of reimbursement of medical expenses to the employees/pensioners."

The scheme is applicable to Central Government employees residing in CGHS covered cities. There is no dispute that CGHS scheme has been made applicable to Guwahati. The order of Ministry of Health dated 4.8.94 which the applicant has challenged makes the scheme compulsory for all Central Government employees residing in CGHS covered areas and employees cannot opt out of the scheme excepting where the spouse of the employee is also employed where option is given to choose the facilities provided by the employer or the spouse. The objective of the scheme as seen above is to provide (i) comprehensive medical care facilities to Central Government employees and their families and (ii) to stop cumbersome reimbursement system of medical expenses. The respondents have pointed out that applicant is beneficiary of the CGHS scheme as he has been issued an identity card No.004518. As a Government employee the applicant has certain rights as well as some obligations. He is also bound by the rules and regulations made by the Government for its employees. The Government thought it



(13)

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desirable to introduce CGHS for a large community of Government employees. The scheme has been made for the benefit of Government employees. The applicant cannot say that as he does not like the scheme he should be allowed to opt out of the scheme. The scheme is aimed at providing standardised medical facilities at the cost of small contribution. A small contribution also entitles to all types of treatment including hospitalization and treatment at specialised institutes at other places. When the scheme has been made applicable the employees residing within the city of Guwahati, the applicant cannot have any option to get out of the scheme. The applicant's request for exempting him from deduction for CGHS contribution is without any merit and deserves to be rejected.

5. The second request of the applicant regarding the withholding of pay for the period of absence is not entertained as the same is not in any way connected with the relief sought on the first ground. The matter being unconnected with the main object the same is turned down in view of the Section 10 of the Central Administrative Tribunal (Procedure) Rules 1987, which restricts relief in an application to a simple cause of action.

The application is accordingly dismissed. There shall, however, be no order as to costs.

Sd/- Vice-Chairman

Sd/- Member (A)

Certified to be true Copy  
प्रमाणित प्रतिलिपि

Section Officer (J)

आनुमान अधिकारी (न्यायिक शाखा)  
Central Administrative Tribunal  
केन्द्रीय प्रशासनिक न्यायालय  
Guwahati Bench, Guwahati-8  
गुवाहाटी न्यायालय, गुवाहाटी-8

30/3/2001



~~ANNEXURE-2~~

INDRAPRASTHA  
APOLLO  
HOSPITALS



14

BR-2  
ANNEXURE-1

18 September 2000

Senior Accounts Officer (Admin)  
Office of the Accountant General (A&E) Assam  
Maizongon, Beltola  
Guwahati 781 029  
Fax 0361 303142

Sir,

Re: Your letter Admin 2/BG-MDL/1/L/Part II/2000-2001/474 dated 14.09.2000  
Re: Mrs Ajanta Gupta

In response to your above fax, I would like to clarify as follows :

1. The signatory of the certificate is an authorised signatory of the hospital, in her capacity as Manager - Inpatient Services. I was aware of it.

2 & 3. In view of the possibility of osteopenia, I have remarked that air travel and escorts will be preferred. I have not mentioned that this is essential You may use your discretion.

Best regards,

Sincerely,

*Mukul Varma*  
DR MUKUL VARMA  
Senior Consultant - Neurology.

WORLD CLASS HEALTHCARE

Address : Sarita Vihar, Delhi-Mathura Road, New Delhi-110044. Ph. :6925858, 6925801 Fax : 91-11-6823629.



ANNEXURE

(15)

ANNEXURE - R3

11 September 2000

TO WHOM IT MAY CONCERN

Re: Mrs Ajanta Gupta, Hospital ID No. M0029221

This is to state that Mrs Ajanta Gupta is suffering from ? Osteopenia and is required to come to this hospital for investigations and review.

An amount of approximately Rs.60,000/- (Rupees Sixty Thousand only) would be needed for the investigations and hospital stay. She is also advised to avoid long distance travel by road or train; it is preferable that she travels by air along with two escorts.

Raj Chandra

for  
DR MUKUL VERMA  
Senior Consultant - Neurology

WORLD CLASS HEALTHCARE

Address : Sarita Vihar, Delhi-Mathura Road, New Delhi-110044. Ph. :6925858, 6925801 Fax : 91-11-6823629.

PHONE NO. : 011 6823629

FROM : APOLLO HOSP DELHI

SEP 12 2000 4:11PM P 1

~~ANNEXURE-2A~~

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10 R-4  
ANNEXURE-2A

OFFICE OF THE ACCOUNTANT GENERAL (A&E) :: ASSAM  
MAIDAMGAON :: BELTOLA :: GUWAHATI-29

No. Admn-II/BG-MDL/TA/Part-II/2000-01/54/

Dated 17-10-2000.

In continuation of this office letter dt. 13-10-2000. Shri Bimalendu Gupta, Sr. Accountant is hereby informed that on the basis of the Medical Certificate dt. 11-09-2000 Air fare as prayed for could not be sanctioned to him in connection with his wife's review treatment, Indraprastha Apollo Hospital, New Delhi as the certificate can not be treated as an essentiality certificate as per clarification issued on the same by Dr. Mukul Varma of Indraprastha Apollo Hospital, New Delhi (Copy enclosed).

As regards re-imbursement of Medical Claims, he is asked to furnish the details of Rs.62,000/-.

In this context, he is informed that there is no such Medical Claims being outstanding except a few Homeopathic and Ayurvedic claims which will be settled in due course.

A Medical claim amounting to Rs. 1791/- found to be time barred, hence forfeited.

It appears from his repeated representations on the same subject that he is scrupulously intent on not to abide by the set rules and orders of the authority concerned.

He is, therefore, cautioned not to submit any representation praying for grant of TA advance for Air journey without an essentiality certificate as required under rules.

Encl:- As stated above.

Shri Bimalendu Gupta, Sr. Accountant.  
Record Section (Local).

Deputy Accountant General (Admn.)

उप महालेखाकार (प्र.प्र.)  
Dy. Accountant General (Admn.)

महालेखाकार का कार्यालय (प्र.प्र. इ.)  
O/o the Accountant General (A&E)

असम, गुवाहाटी  
Assam, Guwahati

Dr. Dilip Ghosal D.H.M.S

SUWAHATI, ASSAM

Regd. No. 1380 (A)

Phone: 543200 (R)

Annexure -

ANNEXURE-8 R-5

(17)

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To whom it may concern

This is to certify that Mrs.  
- Ajanta Gupta w/o Mr. B. Gupta  
was serious on 28th April  
2000 and on call at 10 P.M.  
attended at her residence.

After examine she was  
advised to consult the Apollo  
doctors from whom she  
was taking treatment  
and also advised to avoid  
further journey which  
may cost her life.

Dy. P. 24. /  
19/5/2000  
Dr. Dilip Ghosal  
Regd. No. 1380 (A)

(18)

Annexure - R-6

72

A

Dr. R. N. Pathak, M. D.  
Professor of Medicine Fild.  
Gujarat Medical College

Residence & Chamber  
Relpath Link Road  
Gujarat - 781 007  
Phone - 540422

Date 21.7.2000

Mrs. Ajanta Gupta

35th

as per advice of Dr. R. N. Pathak  
Medical Officer, Chennai  
to get advice at the earliest.

Dr. R. N. Pathak  
21.7.2000



GUWAHATI MEDICAL COLLEGE & HOSPITAL  
OBSTETRICS & GYNAECOLOGY DEPARTMENT

Hospital Regn No. 7352/99 dated 16.08.99

Hospital No. W 14107 dated 16.08.99

Date :- 10.01.2000

TO WHOM IT MAY CONCERN

This is to certify that Mrs Ajanta Gupta, age 34 years, wife of Sri Himaleendu Gupta, was referred to Apollo Hospital, Chennai, on 09.09.99. As per advice of Apollo Hospital, she is advised to go to Apollo Hospital, Chennai, for follow up.

She is medically fit to travel by air both ways.

2 (Two) escorts are allowed.

Approximate estimated cost of investigation / treatment is Rs 30,000/- (Rupees Thirty Thousands) only. The cost will not be borne by the Government of Assam.

*Dr. R. Medhi*  
10/11/2000

(Dr. R Medhi, MD)

Asstt. Professor  
Deptt. of Obs. & Gynaecology  
Guwahati Medical College

To

The Sr Accounts Officer  
O/o the Accountant General (A&E)  
Assam  
Guwahati

Dated Guwahati  
24 Feb 2000

ANNEXURE-8

Ref :- Your letter no. Admn-2/BG-MDL/TA/99-  
2000/637 dated 27th January 2000

Sub :- Air Travel to Chennai in respect of  
Mrs Ajanta Gupta, wife of Mr Bimalen  
-du Gupta

Sir,

With reference to your above mentioned letter I would like to say that Air Travel to Chennai is not absolutely necessary for Mrs Ajanta Gupta for her Gynaecological problems.

However, Mrs Gupta is having Neurological, Orthopaedic and Haematological problems and she is under treatment of Appollo Hospital, Chennai.

As I am not an expert in these fields of medicines, it is not possible for me to give an opinion regarding absolute necessity of air travel for her other diseases. Opinion may kindly be taken from Appollo Hospital, Chennai, where she is treated.

Thanking you,

Yours faithfully

(Dr R Medhi)

Asstt. Professor  
Deptt. of Obs. & Gynaecology  
Guwahati Medical College

~~ANNEXURE-5(B)~~

(21)

78  
ANNEXURE

R-9-~~3~~

OFFICE OF THE ACCOUNTANT GENERAL (A&E)  
BELLOLA, GUWAHATI-29

No. Admn-II BG MEDL TA 99-2000 818

06-03-2000

9/605  
In making a reference to this office Memo No. Admn-II BG MEDL TA 99-2000 567 dt. 22.12.99, Shri Rimalendu Gupta, Sr. Acctn. of this office is hereby asked to expedite reply thereto, for initiating necessary action in this regard.

In this connection, a copy of Dr. R. Medhi's (of GMCH) letter dt. 24.2.2000 is enclosed herewith for his information and necessary action.

Authority: [DAG(A)'s order dt. 6.3.2000]

Encl:- As stated above.

Shri Rimalendu Gupta, Sr. Accountant  
Record & Section  
C/o the A.G. (A&E) Assam,  
Bellola, Guwahati-29.

7/63  
Sr. Accounts Officer (A)

সিনিয়র অ্যাকাউন্ট অফিসার

Sr. Accounts Officer,

অ্যাকাউন্টস (এ & এ) ক্যাডার

21/03/2000  
C/o the Accountant General (A & E)

অ্যাকাউন্টস অফিসার

Assam, Guwahati.

Shri Rimalendu Gupta  
7/3/2000

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ANNEXURE-6  
Annexure-10(A)

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ANNEXURE-6  
R-10

Dr. H. SHIBIHAN, M.D., D.M. (Neuro), MILAAS  
Consultant Neurologist

553658

31/5/2000

His. Myoclonic Epilepsy 34 F

- Somewhat anxious

the brain, cerebellum, dorsal, lateral, right - normal  
the Endocrine system.

&  
26-sept 25mg daily 1 - 3 months

1 mg at bedtime 1 - 1 month  
1 mg at bedtime 1 - 1 month  
1 mg at bedtime 1 - 1 month

Neurology, Willey

- 3) esp. Fibrin 1 daily 1 - 3 months
- 1) Fibrin 500 1 daily 1 - 3 months
- 2) Neurology 1 daily 1 - 3 months

Neurologically fit for admission

Apollo Hospitals

21, Green Lane, Off. Green Road, Chennai - 600 000  
Tel : 0293333 / 0290200 Fax : 91-44-0266761 / 0234429  
Regd. Office : 19, Bishop Garden, Chennai - 600 020  
E-mail: apollo@vsnl.com



(23)

Mrs Arundha Gupta

**ANNEXURE-3**

**R-11**

Nimble M.D 1-1-1 3-4 weeks  
1-2-1 7 weeks

Coenzyme Q10 1-2-1 31 days  
100mg

Mendel fort 1-1-1 31 days

Sup. Fernon 1-1-1 31 days

Try Metabolic Camp 2m  
The Cur Diet 4 weeks

add wt reduction  
1 week in diet

Δ lactic acidosis  
Myalgia

To inform condition on  
11th July that most  
Reviews as family doctor  
decides

*[Signature]*  
11/7/00

Mrs. Anurag Gupta c/o. Getrine receives her  
for baseline & follow-up are brain & neck have  
a multifocal disease. She is not to

Neck MRI for that condition with histopathology  
& electron microscope studies may be available  
She is fit to travel by air

7/6/00

From: Bimalendu Gupta  
Sr Accountant  
A.G. (X-40) Assam G. 21  
on leave at Guwahati  
for wife's treatment.  
02-06-2000

(25)  
227

~~ANNEXURE~~

9

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ANNEXURE  
R-13

To

The Accountant General  
(AG) Assam, Guwahati-29.

Sir,

With reference to your letter dated  
16-05-2000, my wife was examined by Apollo  
Hospital Madras and referred to Indraprastha  
Apollo for <sup>second</sup> opinion. Kindly sanction  
my journey of New Delhi by Air. Expecting your  
kind confirmation by 4th day. 2-06-2000.  
A.G. (X-40) Tamil Nadu Fax No. 044-4320562.

in my name

Thanking you,

Yours faithfully

B Gupta

(Bimalendu Gupta)

~~ANNEXURE-9(A)~~  
OFFICE OF THE ACCOUNTANT GENERAL (A & E), ASSAM,  
MAIDAMGAON :: GUWAHATI-29.

(26)

~~ANNEXURE-9(A)~~  
R-14

No. Admn-2/BG-MDL/TA/2000-2001/91

Dated 02.6.2000.

FAX

To,  
The General Manager-Finance,  
Apollo Hospitals Enterprises Ltd;  
21, Greaves Lane, Off. Greaves Road,  
Chennai - 600 006.

A fax message received today(02.6.2000) at 4.20 P.M.  
from Shri Bimalendu Gupta stating that his wife Smti Ajanta Gupta  
who is presently undergoing treatment at your hospital at Chennai  
has been referred to Indraprastha Apollo Hospital, New-Delhi for  
second Medical opinion and allowed to travel by Air to Delhi.

Kindly confirm the fact by return Fax to The Deputy  
Accountant General(Admn) on Fax No. 0361 303142.

*Rengh 2.6.2000*  
Deputy Accountant General(Admn).

उप महालेखाकार (प्र.)

Dy. Accountant General (Admn.)

महालेखाकार का कार्यालय (ले. ए. ए. ग.)

O/O the Accountant General (A&E)

असम, गुवाहाटी

Assam. Guwahati



Prof. (Dr.) Vijay Kher  
MD, D.M. (NEPH) FAMS, FISC  
Consultant Nephrology  
Formerly  
Prof. & Head Deptt. of Nephrology  
Sardar Patel Post Graduate Institute  
of Medical Sciences, Lucknow

~~ANNEXURE-10~~

27

INDRAPRASTHA  
APOLLO  
HOSPITALS



O.P.D. Timing (Room No. # 2055)  
Mon, Tue : 4.00 P.M. - 7.00 P.M.  
Wed, Thur : 9.00 A.M. - 12.00 Noon  
Fri, Sat : 12.00 Noon - 4.00 P.M.  
Please fix appointment at  
6925859 / 6925801 / Extn : 2062 & 2063

ANNEXURE-10

R-15

Mr. Parash Haloi  
ID No. 99062521

5-5-07

Renal Txp.

- ↓ Netrol 150
- (i) Azoran 75mg daily
- (ii) Wysolone 22.5 mg d.
- (iii) amidepin 5mg daily
- (iv) Septoran 1hc
- (v) Shetalol 500mg bid
- (vi) Fefel 1 daily

Handed to  
Bartoloni Haloi  
8/10/07

Vijay Kher

VIJAY KHER  
MD, D.M. (NEPH)  
FAMS, FISC  
Consultant Nephrology  
Formerly  
Prof. & Head Deptt. of Nephrology  
Sardar Patel Post Graduate Institute  
of Medical Sciences, Lucknow

12/5/07  
5/11  
Shetalol  
1hc

Netrol 150-150  
x 5 (100mg)  
x 5 (25mg)

- ✓ Azoran 75mg daily x 10 (5mg)
- Wysolone 22.5mg daily
- ✓ amidepin 5mg daily x 10
- ✓ Septoran 1hc x 10
- ✓ Shetalol 500mg bid x 10
- ✓ Fefel 1 daily

Vijay Kher

WORLD CLASS HEALTH CARE

Barila Vihar, Delhi Mathura Road, New Delhi-110 044 (INDIA) Tel : 692 5859, 692 5801, Fax : 01-11-6823629  
Res. : F-502, Sarda Vihar, New Delhi Tel : 695 2100, 695 2187  
E-mail : vkher@del3.vsnl.net.in

CVS/leaf

15/5/2000

Neoral

125 - 125

to continue

Immunosuppressant

125mg / Day

to continue

82

hypertension

20mg / Day

to be

reduced by 5mg every week

11 till 10mg / Day

which will continue as usual

Amelogen 5mg daily

Sept 1st till 4th 2000

Clotrimazole drops to cure

Diet Normal

To be seen by Dr. Nandini Chatterjee  
Dr. B. Goshwami

Review after 2 months

To go back to Assam  
by air with an  
escort - also to  
return by air

Vijay Kumar

Dr. VIKAS K. R.  
M.D. D.M. F.A.M.S.  
Sr. Consultant & Director, General  
Prof. of Dept of Paediatrics

14/7/2000

Being followed  
up with by  
Dr. Nandini Chatterjee  
doing well  
stable renal  
function

Neoral

125 - 100

Immunosuppressant 75mg / Day

lysilene 10mg daily

Amelogen 5mg daily

Clotrimazole drops

Continue following Dr. Nandini Chatterjee

Review after Dec 2nd

Air travel with escort  
essential with

~~CONFIDENTIAL~~

MOST IMMEDIATE

COURT CASE  
BY SPEED POST

NO. C. 14012/14/2000-CGHS/D.I.  
Directorate General of Health Services

29

Nirman Bhavan, New Delhi  
dated the 28th Sept., 2000

ANNEXURE-R-16

To

The Deputy Accountant General (Admn.)  
Office of the Accountant General (A&E) Assam  
Maldamgaon, Beltola  
Guwahati-29.

Sub:- Approval for grant of Air fare-etc in connection with  
the follow up treatment of Smt. Ajanta Gupta wife of  
Shri Bimalendu Gupta.

Sir,

Please refer to your letter No. Admn.II/BG-MIL/  
TA/2000-01/437 dated 6.9.2000 on the above subject.

2. The case was examined in consultation with the  
Ministry of Health and Family Welfare and you are requested  
to take the following action as approved by the Ministry  
of Health:-

- (i) Payment of amount of air travel to Shri Gupta  
to and fro Guwahati-Chennai only as per the  
Hon'ble. CAT's Order instead of Guwahati-Chennai  
New Delhi-Guwahati.
- (ii) Submission of specific certification of the  
treating physician of Apollo Hospital, Chennai  
to the effect that the "air travel for the  
patient is absolutely necessary".

You are also requested to contact the CGHS Authorities  
in Guwahati so that they could request the Standing Govt.  
Counsel to keep in view the above two points while preparing  
the draft written statement to be filed in the case before  
the next date of hearing.

Yours faithfully,

(M. Y. ANSARI)  
DEPUTY DIRECTOR ADMN (D.I)

No. Admn-II/RS-MDL/TA/Part-II/2000-01/546

Dated 20-10-2000

(30)

ANNEXURE-R-17

With reference to his application dt. 17-10-2000 regarding essentiality certificate it may be stated that his prayer for providing him with a copy of the letter written to Dr. Varma of Indraprastha Apollo Hospital, New-Delhi can not be entertained due to administrative reasons.

As Shri Bimalendu Gupta could not produce the essentiality certificate for Air journey he is advised to apply for TA advance proposal for Railway entitled class.

He is also asked to apply for revalidation of Permission letter issued earlier by the Joint Director, CHS, Guwahati in connection with his wife's treatment.

Medical Advance of Rs.48,000/- has already been sanctioned and a Bank Draft drawn in favour of 'Indraprastha Apollo Hospital' New-Delhi which may be collected from Admn-II section for delivery of the same to the above said hospital in connection with his wife's treatment.

Grant of TA advance for Air fare Shri Gupta is asked to refer to Ministry of Health & Family Welfare, New-Delhi letter dt. 28-09-2000 (Copy enclosed) and according to which he is required to produce the essentiality certificate to the effect that "Air travel is absolutely essential for the patient".

*X. Siddhartha Dey*  
Deputy Accountant General (Admn.)

Shri Bimalendu Gupta, Sr. Accountant,  
Records Section (Local).

*Received*  
*23/10/2010*

Dated 13-09-2000.

ANNEXURE-18

With reference to his representation dt.12-09-2000 (received on 11-09-2000), Shri. Bimalendu Gupta, Sr. Accountant is hereby intimated that Medical & Advance of Rs.48,000/- being 80% on the basis of estimate of Rs.60,000/- furnished by the Indraprastha Apollo Hospital, New-Delhi has been sanctioned and is asked to submit TA Advance proposal in prescribed form.

He is further asked to deposit the un-utilised amount of Rs.19,472/- which he collected from the Apollo Hospital, Chennai in Cash without obtaining prior permission of this office out of the Medical Advance of Rs.30,000/- paid to the Apollo Hospital, Chennai vide Bank Draft No.100821 dt.10-5-2000 in terms of Interim Order dt.05-5-2000 of Hon'ble CAT, Guwahati Bench for follow up treatment of his wife Smti Ajanta Gupta, immediately into the Govt. Account failing which the same will be recovered in 4(four) equal Instalments from his salary from September'2000.

AUTHORITY :- D.S.G. (Admn.)'s order dt.13-09-2000 at P4 N in  
File No. Admn-II/DE+MDL/TA/Pt-II/2000-01.

Sr. Accounts Officer(Admn.).

अरुण लेखा अधिकारी,

Sr. Accounts Officer.

महालेखाकार (ले. एवं ह.) का कार्यालय  
S/O the Accountant General (A & B)

ਭਲਮ, ਗੁਵਾਹਾਟੀ

4843. Guwahati

To,  
Shri Bimalendu Gupta, Sr. Acctt.

Record(c) Section,

0/0 The A.G. (A & E), Assam, Guwahati-29.

