

CENTRAL ADMINISTRATIVE TRIBUNAL
JABALPUR BENCH

OA No. 291/05

Gwalior, this the 22nd day of November, 2005.

C O R A M

HON'BLE MR. MADAN MOHAN, JUDICIAL MEMBER

Uma Devi Nareliya
W/o late Shri K.C.Nareliya
R/o 196 Bhalarpura
Tamaskar Ka Bada
Jabalpur.

Applicant

(By advocate Shri A.Nema)

Versus

1. Union of India through
its Secretaray
Ministry of Railway, Rail Bhawan
New Delhi.

2. General Manager
West Central Railway
Jabalpur Division
Jabalpur.

3. Chief Medical Superintendent
West Central Railway
Jabalpur.

Respondents.

(By advocate Shri H.B.Shrivastava)

O R D E R

My Madan Mohan, Judicial Member

By filing this OA, the applicant has claimed the following reliefs:

- (i) Direct the respondents to decide the applicant's representation for reimbursement of her medical bills.
- (ii) Quash the impugned order dated 24.12.2004 passed by respondent No.2 whereby applicant's claim for medical reimbursement has been rejected.

2. The brief facts of the case are that the applicant is widow of late Shri K.C.Nareliya who superannuated from the Railway Service after 36 years of service in 1991. Applicant's husband died in 1997 and thereafter the applicant is getting family pension and also receiving the medical aid from the Railway Hospital, Jabalpur. Applicant who is suffering from



heart ailment underwent a heart surgery way back in the year 1980 in Bombay. On 20.2.2004, on account of some emergency, the applicant was hospitalised in the respondent Railway Hospital. At the relevant time, as the consulting doctor was not available, the applicant requested the Railway authorities to refer her case to Bombay Hospital and Medical Research Centre. However, the respondents refused to accept her prayer. Considering her emergency, the applicant was shifted to Bombay Hospital and Research Centre where she was operated by Dr.S.N.Bhagwati. She submitted a medical bill but the claim has been rejected by the respondents on the ground that the applicant's case was not referred by the respondent Railway Hospital to Bombay Hospital. She submitted a representation before respondent No.1 which is pending. Hence this OA is filed.

3. Heard learned counsel for both parties. It is argued on behalf of the applicant that the applicant is claiming the reimbursement of medical bill as per the scheme of the medical facility of the Railways granted to railway employees and their family members. Her claim cannot be rejected merely on the ground that her case was not referred by the Railway Hospital. Applicant has been under treatment for the last 20 years and on account of the emergency she was shifted from the Railway Hospital to Bombay Hospital. Learned counsel of the applicant has drawn my attention to 2004 (2) ATJ 304 and 2004 Vol.I ATJ - State of Punjab & Haryana High Court Vs. State of Haryana in which, in which emergency is established when human life is at stake.

4. Learned counsel for the respondents argued that as per hospital records at Railway Hospital at Jabalpur, the applicant reported at Railway Hospital, Jabalpur on 20.2.04 at 9.45 p.m.



with the history of injury on right ankle. Dr. Anil Choudhary, Orthopaedic Surgeon Examined her and found that there was twisting of both ankles and the patient was given necessary treatment. The patient was discharged on 23.2.04 after prescribing treatment. The averment of the applicant that she requested for referring her case to Bombay Hospital is incorrect. The applicant never reported to Railway Hospital at Jabalpur. Had she requested, she could have been referred to Byculla Railway Hospital, Mumbai or any other Government hospital where such facilities are available. As per the discharge summary of Bombay hospital, the patient was having neurological complain in lower limbs since 1 $\frac{1}{2}$ months to two months for which she never attended the Railway Hospital at Jabalpur. It appears that it is a planned elective operation and not a case of emergency. The claim was rejected as the same is not covered and permissible under the Railway Rules as mentioned in Indian Railway Medical Manual (Annexure R1).

5. After hearing learned counsel for both parties and perusing the records, I find that the applicant's heart was operated in the year 1980 in Bombay and thereafter she was under treatment as mentioned in the OA. This fact is not controverted by the respondents in their reply. Again when she developed complication on 30.12.2000 she was admitted in Railway Hospital where she consulted other medical expert and thereafter the treatment was continuously going on till February 2004. According to the contention of the respondents, the applicant was discharged from the Railway Hospital on 23.2.04 after prescribing treatment. She was admitted in Bombay hospital on 6th March 2004 and Dr. S. N. Bhagwati had conducted an operation on 8th March 2004. I have perused the relevant and concerned documents filed on behalf of the applicant, issued from Bombay Hospital & Research Centre. According to the applicant, she had requested the railway authorities

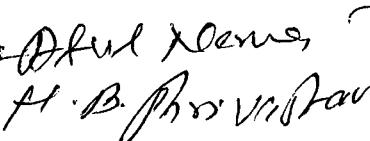
for referring her case to Bombay Hospital but the respondents did not consider it. On the other hand, the respondents have admitted the fact the applicant had never requested to refer her case to Bombay. Admittedly, the applicant was discharged from Bombay Hospital on 23.2.04 and was operated by Dr.S.N. Bhagwati who is MS, FACS, FAMS, Director of Neurosurgery and Chief Neurosurgeon, Bombay Hospital. He seems to be a competent doctor in his field.

6. Considering all facts and circumstances of the case, I am of the considered view that the OA is liable to succeed. The impugned order dated 2.3.05 (Annexure A2) is quashed. The applicant may file a fresh representation giving all details with relevant and concerned documents regarding her treatment within one month from the date of this order to respondent No.1 and if she complies with this, then the respondents are directed to consider and decide such representation of the applicant within 4 months from the date of receipt of such representation.

7. The OA is disposed of as above. No costs.


(Madan Mohan)
Judicial Member

प्राप्तिकरण संग ओ/न्या.....
प्रतिक्रिया अवधि दिनांक.....
aa.(1) संवित, अच्छा ज्यादातर वार्ता करना, जबलपुर, दि.....
(2) अक्षेत्रीय लोकों/विदेशी/.....
(3) प्रत्यक्षी लोकों/विदेशी/.....
(4) व्यापारी, कंपनी, वार्ता करना, जबलपुर
सूचना एवं वावधानक दस्तावेज़.....

Ofc. No. 100, 
H.B. Phansavava DBP

28/11/05
ज्यू रजिस्ट्रार

28/11/05
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