

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 381 of 2004

Jabalpur, this the 16<sup>th</sup> day of November, 2004

Hon'ble Shri Madan Mohan, Judicial Member

G.R. Bundelkhandi, son of Shri Ramdas  
Bundelkhandi, aged about 60 years, ABS  
Station Management office, Itarsi,  
Distt. Hoshangabad (MP).

... Applicant

(By Advocate - Shri R.L. Gupta)

versus

1. Union of India,  
Ministry of Railway,  
through Secretary,  
Govt. of India, New Delhi.
2. Divisional Railway Manager,  
Central Railway, Bhopal (MP).
3. Chief Medical Superintendent,  
Central Railway, Bhopal,  
through DRM Bhopal.
4. Medical Superintendent,  
Central Railway, Itarsi,  
District Hoshangabad (MP). ... Respondents

(By Advocate - Shri H.B. Shrivastava)

O R D E R

By filing this Original Application the applicant has claimed the following main reliefs :

"(i) it is, therefore, prayed that the respondents be directed to reimburse the bills/claims of the petitioner which have been incurred by him during the treatment with interest as per Annexure A-10,

(ii) The letter dt. 19.1.2004 rejecting the claim of the petitioner vide Annexure A-14 may also be quashed,

(iii) the show cause notice dt. 2.1.2004 sent to the petitioner by the respondents of stopping the Railway Passes vide Annexure P-15 may also be quashed."



2. The brief facts of the case are that the applicant suffered a heart attack on 11.4.92 and at that time he had taken treatment at Bhopal. The applicant suffered a second heart attack on 22.12.93 and had taken treatment in Janseva Rugdalay till 5.1.94. Seeing the gravity of the disease, the department i.e. M.S.E.T. sent the applicant to Bombay for treatment in Feb. 1994 and he had taken treatment there. Thereafter, MSET vide letter dated 16.9.95 referred the applicant to Bombay Hospital where angiography was made. As there was no progress in the condition of the applicant, respondent No.3 permitted the applicant to take treatment at Perambur (Madras) Hospital. He made complete arrangement for going to Perambur Hospital and respondent No.3 gave the sick certificate on 24.6.2000. The applicant was also given railway pass by respondent No.3 with attendant. During the journey to Perambur, the applicant became very serious and he was admitted in Apollo Hospital, Madras on 29.6.2000 where the doctors of Apollo Hospital also called the necessary information of previous treatment from Perambur hospital. After discharge from Apollo Hospital, the applicant appeared before M.S.Perambur and M.S.Itarsi and on the basis of that and as per the instructions of doctors of Apollo Hospital, the applicant was called for check up after 3 months. He was given a medical pass on 12.9.2000 by M.S.Itarsi and on the basis of that pass, the applicant took reservation. The applicant took treatment on 16.10.2000 at Apollo Hospital, Madras. The applicant submitted the bills of expenses and treatment for Rs.3,39,136/- which was refused by respondent No.4 on the ground that the applicant took treatment in another hospital for which the applicant is

not entitled. The applicant submitted a representation which was rejected by order dated 1.3.01 refusing his claims, while the respondents issued railway passes and granted permission to the applicant to take treatment. According to the Railway Establishment Rules and Labour Laws, there is a special clause "reimbursement" in case of emergency. The applicant filed an earlier OA No.239/01 which was disposed of vide order dated 12.11.03 (Annexure A6) with a direction to reconsider the matter keeping in view the extant instructions on the subject and also consulting the nodal authorities, but the respondents rejected the claim of the applicant vide order dated 19.1.2004 (Annexure A7) and also sent a show cause notice to the applicant as to why the railway passes issued to him be not stopped. The applicant submitted his reply to the show cause notice on 2.1.04. Hence this OA is filed.

3. Heard the learned counsel for both parties. It is argued on behalf of the applicant that the applicant had suffered a heart attack on 11.4.92 and it was repeated on 22.12.93 and thereafter he was continuously undergoing treatment. The applicant had made complete arrangements for going to Perambur Hospital, Madras. The condition of the applicant became very serious on his way to Perambur and his family members had to admit him in Apollo Hospital on 28.6.2000 in emergency. Learned counsel of the applicant has shown the rule in this regard in which it is mentioned "where, in an emergency, a Railway servant has to go for treatment (including confinement) to a Government hospital or a recognized hospital or dispensary, without prior consultation with the authorized medical attendant, the reimbursement of the expenses incurred,



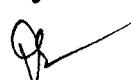
to the extent otherwise admissible, will be permitted if, after careful examination of the circumstances of the case, competent medical authority accords an ex-post facto approval". As the case of the applicant was of utmost emergency, hence under compelling circumstances, he was admitted to Apollo Hospital to save his life and according to the aforesaid rules, the applicant was permitted to get his treatment done at that hospital. The learned counsel has drawn my attention towards a document in which he has claimed Rs.3,39,136/- as expenses incurred for his treatment at Apollo Hospital, Madras but the claim was rejected by the respondents. Hence he filed OA No.239/01 and by order dated 12.11.03, the Tribunal directed the respondents to look into the serious aspect of the applicant as reported by him as the reason for having gone to Apollo Hospital, Madras. However, the respondents had rejected the claim of the applicant vide order dated 19.1.2004. The respondents had issued railway passes to the applicant for undergoing medical check up in Apollo Hospital, Madras. Hence indirectly they had given permission for the applicant's treatment at Apollo Hospital. The applicant is hard pressed and is facing acute financial crisis as he has spent a huge amount for his treatment to save his life in emergency condition. Hence the action of the respondents is wholly unjustified.

4. In reply, learned counsel for respondents argued that the applicant had earlier filed OA 239/01 and vide order dated 12.11.03 the Tribunal had directed the respondents to reconsider the matter keeping in view the extant instructions on the subject and also after consulting the nodal authorities on the subject i.e. the Ministry of health and Family Welfare as

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also to look into the seriousness of the case as reported by him as the reason for having gone to Apollo Hospital, Madras. The learned counsel argued that there was no emergency for the applicant to be admitted in Apollo Hospital, Madras, as is mentioned in Para 5 of the return. The details mentioned therein showed that the condition of the applicant was normal, and further argued that the applicant boarded Train No.2616 on 26.6.2000 from Itarsi to Chennai Central and after reaching Chennai on 27.6.2000, for nearly 32 hours, the applicant did not avail any treatment at any hospital at Chennai. He got himself admitted in Apollo Hospital on 28.6.2000 for treatment instead of going to Southern Railway Hospital, Perambur which is located in the same city. The applicant was directed to go to Railway Hospital, Perambur which is one of the leading Research Cardiology Institute in India for Coronary Artery Bypass Graft Surgery and is equipped with all modern facilities for treatment of all types of heart ailments much better than Apollo Hospital, Madras. Railway employees from all over the country are referred to Southern Railway Hospital, Perambur where they are entitled to all treatment and other facilities free of cost. There was no emergency which compelled him or his relatives to get him admitted in Apollo Hospital at Chennai for CABG. Hence he is not entitled to any medical reimbursement as claimed for availing treatment in a private hospital. Hence the respondents have not committed any irregularity or illegality in passing the impugned order.

5. After hearing the learned counsel for both parties and a careful perusal of the records, I find that the applicant was permitted to avail treatment at Southern Railway Hospital, Perambur by the respondents and



this hospital is also located in Chennai where the Apollo Hospital is located and according to what is mentioned in Para 5 of the return, the case of the applicant was not of emergency at all. The applicant has not shown any cogent sufficient reason as to why he did not go to Southern Railway Hospital, Perambur, for treatment, Chennai which is equipped with all modern facilities for treatment of all types of heart ailments and railway employees are frequently referred to this hospital. The rule shown on behalf of the applicant is applicable only in case of emergency but the applicant could not show any emergency in his case. He should have gone to the Railway hospital, Perambur first and got checked up there and then on the advice of the doctor there, he should have gone to Apollo Hospital for treatment. The applicant has not submitted the medical bills issued from Apollo Hospital, Chennai. He has simply filed one prescribed form filled in by him in which in Para 8 he has mentioned Rs.3,39,136/- as the details of the amount claimed. I have perused the return in which in page 4 Opinion it is mentioned that "non-emergency elective coronary artery bypass graft surgery (CABG) was done on 11.7.2000 on the ID No.632400 which was allotted to him on 17.5.99". This "Non" clearly shows that the condition of the applicant on 28.6.2000 the day he was said to have been admitted in Apollo Hospital, Chennai was not of an emergency at all.

6. Considering all the facts and circumstances of the case, I am of the considered opinion that the OA has no merit and the same is dismissed.

No costs.

  
(Madan Mohan)  
Judicial Member