

CENTRAL ADMINISTRATIVE TRIBUNAL
JABALPUR BENCH

OA No.555/04

Jabalpur, this the 15th day of December, 2004

CORAM

Hon'ble Mr.Madan Mohan, Judicial Member

K.C.Venkateshwar Rao
S/o Shri K.V.Chalpatirao
Ex-Mail Guard, Jabalpur.
R/o 2189, Bharat Colony
Ratan Nagar Road
Jabalpur.

Applicant

(By advocate Shri S.A.Dharmadhikari)

Versus

1. Union of India through
the General Manager
West Central Railways
Jabalpur.
2. The Divisional Railway Manager
WCR, Jabalpur.
3. The Chief Medical Officer
Railway Hospital
Jabalpur.

Respondents.

(By advocate Shri M.N.Banerjee)

O R D E R

By Madan Mohan, Judicial Member

By filing this OA, the applicant seeks to set aside the order dated 22.3.04 (Annexure A12) and to direct the respondents to settle the claim and make payment of the medical reimbursement amount forthwith.

2. The ~~brief~~ facts of the case are that the applicant who was appointed in the Railway Department in 1973 was voluntarily retired by order dated 9.11.2001 while working as 'A' Grade Mail Guard in the Central Railway, Jabalpur. He suffered a stroke of brain haemorrhage on 10.1.2001 and had to be admitted in an unconscious condition at Anant Hospital, Jabalpur which is the nearest hospital from his residence. The applicant's brother immediately informed about the illness on the same day i.e. 10.1.2001 the Divisional Railway Manager,



Jabalpur, regarding the applicant's hospitalisation. This information was also sent to the Chief Medical Officer, Railway Hospital, Jabalpur. On receiving the information, Senior Divisional Manager, Railway visited Anand Hospital and examined the applicant thoroughly and advised to continue treatment at the same hospital. An application was submitted on behalf of the applicant for grant of loan from his PF account and since the applicant was unconscious, his thumb impression was taken on the application and the same was duly certified by Dr. Mittal, the Senior DRM, on 15.1.2001 (Annexure A5). An amount of Rs.39,000/- was sanctioned and handed over to the wife of the applicant. The applicant continued his treatment at Anand Hospital, Jabalpur for about 65 days but his condition did not improve. Therefore the doctor suggested that he may be shifted to some other hospital outside Jabalpur, like Mumbai, Delhi or Bangalore. Thereafter the applicant was shifted to Railway Hospital, Jabalpur on 15.3.2001 without being referred to any other speciality hospital. After keeping the applicant for five days at the Railway Hospital, Jabalpur, the medical authorities of the Railway Hospital advised the members of the applicant's family to take him home as his condition was not likely to improve and prescribed various medicines for his treatment. The family members of the applicant submitted a claim for medical reimbursement to the competent authority on 19.4.2001 for an amount of Rs.1,36,306/- duly filled in along with a list of medicines used during treatment. The case of the applicant is covered under CSMA Rules for claiming medical reimbursement. Due to non-payment of medical reimbursement bills, the applicant filed OANB.79/04



before the Tribunal, which was disposed of at the admission stage with a direction to decide the claim of the applicant within a period of 2 months vide order dated 29.1.2004 (Annexure A11). The respondents rejected the claim of the applicant vide order dated 22.3.2004 without application of mind. Hence this OA is filed.

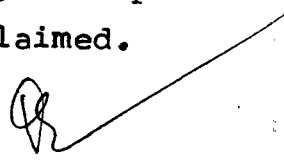
3. Heard the learned counsel for both parties. It is argued on behalf of the applicant that the applicant suffered a stroke of brain haemorrhage on 10.1.2001 and was admitted in an unconscious condition at Anand Hospital which is the nearest hospital from his residence. His brother immediately informed the DRM, Jabalpur about the illness on the same day and the Senior Divisional Manager, Railway namely, Dr. Mittal visited Anand Hospital and examined the applicant and advised ~~to~~ continue treatment at the same hospital. This fact is not denied by the respondents in their return. Rather the respondents are silent on this point. A loan of Rs.39,000/- was taken for treatment of the applicant which was sanctioned by the respondents. After about 65 days, the doctor at Anand Hospital suggested that the applicant may be shifted to some other hospital outside Jabalpur, like Mumbai, Delhi or Bangalore, but he was shifted to Railway Hospital, Jabalpur on 15.3.2001 and after keeping the applicant for five days at the Railway Hospital, the medical authorities advised the members of the applicant's family to take him home as his condition was not likely to improve. The family members of the applicant submitted a claim for medical reimbursement which was not granted. Hence the applicant filed OA No.79/04 in which the Tribunal had issued direction to the respondents to decide the case of the applicant. However, his claim was rejected by the respondents vide order dated 22.3.2004 (Annexure A12), without application of mind.



4. In reply, the learned counsel for the respondents argued that the applicant got himself admitted in a private hospital i.e. Anand Hospital, Jabalpur, instead of Railway Hospital. The Railway Hospital at Jabalpur is fully equipped for treatment of the disease of the applicant. According to Medical Manual para 647 it is provided that:

"A Railway employee obtaining medical attendance and for treatment for himself or a member of his family or dependent relatives should under the provisions of para 633 consult his authorized medical officer first and proceed in accordance with his advice. In case of his failure to do so, his claim for reimbursement will not be entertained except as provided herein after".

As the applicant has not complied with the provisions as above, a letter was issued to him calling for certain information which the applicant has not furnished. The directions issued by the Tribunal were duly complied with and the representation of the applicant was rejected by a speaking order. The learned counsel further argued that the railway hospital was equally equipped with proper medical facilities and the applicant should have been admitted in the railway hospital and on the advice of the railway hospital, the applicant should have been referred to any other specialised hospital. The respondents did not compel the applicant to be admitted to any other hospital. It was the choice and discretion of the applicant or his family members to admit him in any other hospital as they had already admitted the applicant in Anand Hospital, Jabalpur, instead of the Railway hospital and after 5 days of treatment, the medical authorities advised the family members of the applicant to take him home as he was incurable and they prescribed certain medicines but the applicant was not admitted thereafter to any other specialised hospital outside Jabalpur. It shows that the applicant's family was satisfied with the treatment of the Railway Hospital, Jabalpur. Hence the applicant is not entitled for the reliefs claimed.



5. After hearing the learned counsel for both parties and careful perusal of the records, I find that due to sudden ~~stroke~~ of brain haemorrhage, the applicant was admitted in an unconscious condition in Anand Hospital which is said to be the nearest hospital and the brother of the applicant immediately informed the DRM, Jabalpur about this and Dr. Mittal, Senior Divisional Manager, Railway visited ~~Anand Hospital~~ and examined the applicant thoroughly and advised to continue treatment at the same hospital. This fact is not denied by the respondents. After 65 days' treatment at ~~Anand Hospital~~ the doctor advised the family members of the applicant that the applicant be shifted to some other hospital outside Jabalpur. The application for grant of loan from PF account of the applicant could not be signed by the applicant himself because he was in an unconscious condition. Hence his thumb ~~impression~~ impression was put thereon, which was duly certified by the Railway Doctor. On 15.3.2001, he was shifted to Railway Hospital, Jabalpur and after keeping him there for 5 days, the medical authorities advised the members of the applicant's family to take him home as his condition was not likely to improve and prescribed various medicines for his treatment. It shows that the applicant's treatment was not possible in the Railway Hospital, Jabalpur. He should have been referred by the railway authorities to any other hospital in this regard. The railway hospital was equipped for the treatment of the ~~disease~~ disease of the applicant as is mentioned in the return but the respondents have not mentioned about the details of equipments etc. to deal with a most serious illness of the brain which is very complicated disease and its treatment is rarely available and the applicant could not be treated during 65 days by the



Anand Hospital which is said to be the nearest hospital in this regard. The railway and medical authorities also advised the family members of the applicant after 5 days to take the applicant home indirectly declaring him as incurable by them. They should have themselves referred the applicant to another specialised hospital of the country. It is relevant to mention here that the applicant was not discharged from the railway hospital with the certificate of the doctor concerned that he was perfectly alright but he was discharged as non-curable. All these aspects are not considered in the impugned letter by the respondents in A-12. A claim of Rs.1,36,306/- was submitted on behalf of the applicant for the expenses incurred for his treatment at Anand Hospital, which is not controverted by the respondents.

6. Considering all the facts and circumstances of the case, I am of the considered view that this OA deserves to be allowed and the impugned order dated 22.3.04 (Annexure A12) is liable to be set aside. I do so accordingly and the respondents are directed to settle the claim of the applicant and pay him the actual amount incurred on his treatment at Anand Hospital, Jabalpur within a period of 3 months from the date of receipt of a copy of this order. No costs.

(Madan Mohan)
Judicial Member

aa.

पुस्तक सं जो/न्या.....जबलपुर, दि.....

प्रतिनिधि अर्पित:-

- (1) सचिव, उच्च न्यायालय काय एकोरिडेशन, जबलपुर
- (2) आवेदक श्री/श्रीमती/कु.....के काउंसल
- (3) प्रत्यर्पी श्री/श्रीमती/कु.....के काउंसल
- (4) वर्यपाल, को.प्र.अ., जबलपुर न्यायपीठ
सूचना एवं आवश्यक कार्यवाही हेतु

उप रजिस्ट्रार

S. A. Dharmadhikari
Adv. J.B.D
M. N. Benavjee Adv.
J.B.D

Issued
On 15.12.04
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