

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 511 of 2003

Jabalpur, this the 25th day of November, 2003

Hon'ble Shri G. Shanthappa, Judicial Member

M.K. Shriwastav son of
Late S.N. Rai Shriwastav,
aged about 51 yrs. Super Visor
(Non Technical) Stores, Grey
Iron Foundry, Jabalpur, R/o.
House No. 351, West Chhampur,
Jabalpur, M.P.

... Applicant

(By Advocate - Shri K. Datta)

V e r s u s

1. Union of India, through the
Secretary, Department of Defence
Production, Ministry of Defence,
Govt. of India, New Delhi.

2. The General Manager,
Grey Iron Foundry Jabalpur,
Jabalpur, M.P.

... Respondents

(By Advocate - Shri P. Shankaran)

O R D E R (Oral)

The above Original Application is filed seeking the relief to direct the respondents to allow the expenses incurred by the applicant in his treatment amounting to Rs. 1,52,232/-.

2. The case of the applicant is that as he was suffering from heart disease he was referred to Netaji Subhash Chandra Bose Medical College, Jabalpur by the Medical Authority of Vehicle Factory Hospital, Jabalpur on 21.07.1999, in the Department of Cardiology for Angiography and expert opinion. The Board of Members of the said hospital has referred the applicant for coronary angiography and further management to the Apollo Hospital, Hyderabad.

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3. The applicant has been admitted in the Apollo Hospital, Hyderabad on 12.08.1999. Coronary artery bypass graft surgery with 2 grafts was done on 18.08.1999 and he was discharged on 26.08.1999. At the time of discharging the applicant from Apollo Hospital, they had billed Rs. 1,55,322/- ^{and} after deduction of discount the applicant had deposited Rs. 14,132/- to the hospital authority in addition to the amount ^{of Rs. 1,37,800/-} already deposited earlier. The case of the applicant is that he has taken the medical treatment facilities governed under the CSMA Rules, 1944. According to this rule he is entitled for the expenses which are occurred for his treatment. The respondents have rejected the claim and disallowed the amount of Rs. 40,069/-, without mentioning, ^{that} under which rules they have disallowed? Hence the impugned order Annexure R-1 is liable to be quashed. Before disallowing the medical bills no opportunity was given to explain on what ground the applicant is eligible/entitled for the medical bills claimed by him. Hence there shall be a direction to the respondents for grant of full medical allowances/bills.

4. Per contra the respondents have filed their reply stating that the case of the applicant has been considered vide Annexure R-1, dated 22.05.2001. The respondents have issued the necessary orders with calculation, disallowing certain bills. They have considered the case of the applicant under the package deal. The applicant is entitled to get medical treatment facilities only in accordance with the CSMA rules and for specialised treatment at par with CGHS beneficiaries. The respondents have produced the extract of Swamy's Compilation regarding medical attendance rules. The respondents have supported the action of the

authorities. There is no illegality or irregularity while issuing the order at Annexure A-1. The specific contention taken in the reply is that the applicant was paid medical advance of Rs. 1,37,800/- as initial expenses which was subject to adjustment in his final claim to be submitted after treatment as admissible under the rules. After completion of treatment, the applicant submitted the final medical reimbursement claim for Rs. 1,55,672/-. The said bill was processed and forwarded to the Principal Controller of Accounts (Factories), Kolkatta for audit and passing. While auditing the claim as per the existing rules, only Rs. 1,15,003/- was allowed and Rs. 40,069/- was disallowed. Thus a sum of Rs. 22,197/- was outstanding from the applicant against medical advance of Rs. 1,37,800/- paid to him. This was informed by the audit authority^{vide letter dated 22.05.2001} and accordingly the applicant was directed to deposit the excess amount of advance drawn by letter dated 01.07.2002.

5. After hearing the advocate for the applicant and the advocate for the respondents and after perusal of the records and documents the said OA is decided finally.

6. The case of the applicant is that the respondents have not considered the case of the applicant in view of rule 6 (1) and 6 (2) of the CSMA Rules and according to which a Government servant shall be entitled free of charge treatment. The respondents have not considered the administrative instructions issued ^{Regarding} ~~to restrict~~ the reimbursement of expenditure incurred on medical treatment of an employee and ^{The impugned orders} ~~which~~ are in violation of the rules are liable to be quashed and set aside as provided in the

case of R.P. Mehta Vs. Union of India and others of Chandigarh Bench of the Tribunal passed on 25.01.2002 vide Annexure A-10. Before issuing the order at Annexure A-1 there was no opportunity of hearing was given to the applicant. Hence the action taken by the respondents are illegal. As per Annexure A-11 the judgment of the Hon'ble Supreme Court of India in Civil Appeal No. 11541-11542 of 1996 is applicable to the facts of this case and the reliefs claimed in this Original Application should be granted.

7. The respondents have argued that though they have issued the orders regarding disallowing ~~of~~^{ed} some of the medical claims as per Annexure A-1, but the relevant provisions have not been mentioned. The objection of the audit authorities dated 22.05.2001 were not given to the applicant. Hence the respondents be directed to issue notices to the applicant and pass ^{ed} an appropriate order by assigning reasons for dis-allowing the medical bills.

8. On the submission made by the learned counsel for the applicant and the learned counsel for the respondents, I come to the conclusion that the respondents did not issued the letter dated 22.05.2001, ^{and} the objection raised by the audit authorities, to the applicant to verify whether the objection was genuine or not. Even in the impugned order the respondents have not mentioned under which rule the medical disallowances were made. Hence the said impugned order is non-speaking order and no opportunity of hearing was given to the applicant.

9. Accordingly, the said impugned order Annexure A-1 is quashed, with a direction to the respondents to consider the

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case of the applicant afresh by assigning reasons under provision which^{of.} they have disallowed the medical reimbursement and pass speaking order within a period of two months from the date of receipt of copy of this order. If the applicant is entitled for the medical reimbursement of Rs. 40,069/-, whatever the amount recovered earlier is directed to be returned to the applicant. Accordingly, the OA is partly allowed. No costs.

G. Shanthappa
(G. SHANTHAPPA)
JUDICIAL MEMBER

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पृष्ठंकल सं. ओ. आ. दि.

प्रतिनिधि कार्य दि.

(1) प्रतिनिधि कार्य दि. दि.

(2) प्रतिनिधि कार्य दि. दि.

(3) प्रतिनिधि कार्य दि. दि.

(4) प्रतिनिधि कार्य दि. दि.

सूचना एवं प्रकाशन कार्य दि.

Shri K. Datta Adv. JBP.
Shri P. Shankaran Adv. JBP.

Shanthappa
9.12.03

Filed
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10/12/02