

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH
CIRCUIT CAMP:GWALIOR

Original Application No.129 of 2001

Jabalpur, this the 29th day of April, 2003.

Hon'ble Mr.R.K.Upadhyaya-Member(Administrative)
Hon'ble Mr.J.K.Kaushik - Member(Judicial)

K.C.Gautam S/o Late Shri Har Prasad Gautam,
Aged 60 years, Resident of N-33,Gandhi Nagar,
Gwalior,Madhy Pradesh

- Applicant

(By Advocate - Shri S.C.Sharma)

Versus

- 1.The Controller & Auditor General of India,
10,Bahadur Shah Zafar Marg, New Delhi.
 - 2.The Accountant General (Audit) II,M.P.Bhopal.
 - 3.The Dy.Accountant General (Works) M.P.,53,Arera
Hills,Bhopal, Madhya Pradesh.
- Respondents
- (By Advocate - Shri Madhukar Rao)

ORDER

By R.K.Upadhyaya, Administrative Member -

This application has been filed seeking a direction for reimbursement of medical claims of Rs.93,000/- and Rs.9,396/-. At the time of hearing, the learned counsel of the applicant stated that the claim of Rs.9,396/- has since been settled. Therefore, his grievance now remains in respect of reimbursement of medical claims of Rs.93,000/-only.

2. It is stated that the applicant was working as Senior Audit Officer in the Office of Accountant General, Audit-II, Madhya Pradesh, Bhopal at the relevant time. He has since retired on 31.10.2000. It is further stated that the applicant had taken leave with permission to leave the headquarters on the ground that he was to be operated for cataract in the left eye at Birla Health & Research Institute (for short 'BHRI') Gwalior. He had also sought permission to visit wife of his elder brother at New Delhi who was suffering from cancer. The applicant was granted leave as applied for. The applicant states that on 18.2.1998 he was operated

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cataract in his left eye and as per the recommendations of the BHR I he was advised rest from 18.2.1998 to 27.3.1998. In view of the advice of the doctor of BHR I, the applicant could not proceed to see the wife of his brother. However, on getting the news of her death, he proceeded to New Delhi, after getting permission from the eye surgeon. On reaching at New Delhi, the applicant fell ill "and due to heart attack he became uncounscious". The applicant was taken to Batra Hospital which was the nearest hospital in Delhi for emergency treatment. The applicant was kept in Coronary Care Unit for three days from 18.3.1998 to 20.3.1998 and for this period he had to incur an expenditure of Rs.93,000/- on Catherisation (Coronary angiography and ~~angioplasty~~). . According to the applicant this includes an amount of Rs.12,000/- on Catherization (coronary angiography) and Rs.70,000/- for coronary balloon angioplasty. He has further added 15% for private ward and has stated that actual payment was made only Rs.93,000/- instead of Rs.94,3000/-. The learned counsel of the applicant stated that the treatment was taken in emergency as can be seen from the certificate dated 20.3.1998 issued by Professor Upendra Paul, Director, Interventional Cardiology & Electrophysiology, Batra Cardiac Care Centre, New Delhi. This certificate reads as under-

"This is to certify that Mr.K.C.Gautam, 57 years male, was admitted with us (Admission No.53937) on 18/03/98 with unstable angina. Due to his unstable condition, coronary angiography was done on emergency basis on the same day. His coronary angiography showed significant disease of posterior descending, ramus and 1st diagonal coronary arteries for which he underwent angioplasty (PTCA) on the same day".

A copy of the certificate dated 20.3.1998 was produced at the time of hearing, which is kept on record. The learned counsel of the respondents admitted that such a certificate has already been filed along with the claim made by the applicant. The learned counsel of the applicant further stated that several queries had been raised by the respondents vide their letters dated 18.8.1999 (Annexure-A-IV) and 15.11.1999 (Annexure-A-VII). However, in spite of submitting the explanation and details the payment has not yet been made to the applicant. In connection, the learned counsel further invited atte

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Govt. of India, Ministry of Health & Family Welfare O.M.No.
S.14012/9/75-MC(MS) dated the 18th June, 1982 wherein it
has been provided as follows:-

"When treatment had in recognized hospital without following the procedure.-" Instances have also been noticed where treatment in emergencies has been obtained in hospitals recognized either under the CS(MA) Rules, 1944 or under the Central Government Health Scheme even though they had not been formally referred by the Authorized Medical Attendant. In such cases, where in emergencies, treatment is obtained in hospitals recognized under the Central Government Health Scheme or under the CS(MA) Rules, 1944, even though the procedure prescribed thereof had not been followed, the reimbursement may be allowed in full in accordance with the rates as approved under the CS(MA) Rules, 1944, or under the Central Government Health Scheme, as may be applicable subject to the extent admissible under the CS(MA) Rules, 1944 and fulfilment of other codal requirements thereunder. The Government employees would, however, not be entitled to reimbursement of any Travelling Allowance/Daily Allowance for availing of such treatment. This relaxation will, however, not be applicable in respect of treatment obtained in institutions recognized for specialized treatment like Post-Graduate Institute of Medical Education and Research, Chandigarh; All India Institute of Medical Sciences, New Delhi; Christian Medical College and Hospital, Vellore, etc. 2.

According to him, the Batra Hospital where the treatment was taken by the applicant is a private hospital but recognized under the CS(MA) Rules for specialized and general purpose treatment. In the circumstances, it is urged that the respondents be directed to reimburse the medical expenses without any further delay.

3. The learned counsel of the respondents invited attention to the reply filed wherein it has been stated that the applicant had applied for commuted leave from 18.2.1998 to 27.3.1998 which was sanctioned by the office. The applicant had submitted two bills relating to his treatment in Delhi at Batra Hospital for Rs.93,000/- and for operation of cataract at B.M.R.I., Gwalior for Rs.4612/-. His medical claim of Rs.4,612/- for operation of eye was settled and payment was made to him. So far as his claim regarding his operation of angiographies and angioplasty at Batra Hospital, New Delhi during the period 18.3.1998 to 20.3.1998 is concerned, no intimation of any kind from him regarding his going to Delhi for operation

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angiography and angioplasty at New Delhi. The applicant had resumed his duties at Bhopal on 30.3.1998. It is also stated by the respondents that Batra Hospital is situated at New Delhi and being outside Madhya Pradesh, therefore, the applicant was required to take permission/sanction from the Director of Health Services, M.P. Bhopal for taking treatment at New Delhi. The applicant neither intimated the respondents' office for getting the treatment in Batra Hospital, New Delhi, nor submitted permission/sanction for said treatment from the Director of Health Services, Madhya Pradesh, Bhopal. According to the respondents such a permission is pre-requisite for making any claim as per O.M. dated 18/29.7.1960 (Annexure-R-2). According to the respondents there are several missing links in the explanation given by the applicant. The applicant has given address of his ailing brother's wife as Vashist Park, Janak Cinema Pankha Road, New Delhi. This area being in Janakpuri is far away from Batra Hospital, whereas number of good hospitals were available in the nearby area of Janakpuri. In any case, the claim of the applicant being against the rules, is not reimbursable. Therefore, this OA deserves to be rejected.

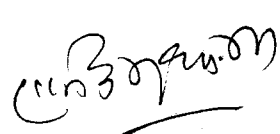
4. We have heard the learned counsel of both the parties and have perused the material available on record carefully.

5. The fact that the applicant had undertaken treatment at Batra Hospital, New Delhi is not disputed. The basic issue is whether the applicant can be reimbursed the expenses incurred by him even without taking permission from the respondents and the Director, Health Services, Govt. of M.P. Bhopal. In this case, the applicant was already on leave for his eye operation. He had undergone treatment for his eye and was advised rest for about a month. During this period the applicant had gone to Delhi to visit his brother's family. The certificate dated 20.3.1998 ^{re-}produced earlier states that the treatment of coronary angiography was done on emerg

basis because of unstable condition of the applicant. There is also no dispute that Batra Hospital though a private hospital is recognised for specialized and general purpose treatment under the CS(MA)Rules. In our considered view, medical reimbursement is a welfare activity of the State for its employees. It should be liberally interpreted. However, in this case, we find that this is a case of treatment in emergency and the treatment has been taken at a place which is otherwise authorised under the CS(MA)Rules. Small details like which hospital should be preferred should not have come in the way of consideration of the claim of the applicant. The applicant and his relatives could have taken a decision as to which hospital the applicant was to be taken in case of emergency. On this account alone, the claim of the applicant should not have been held up for reimbursement. Therefore, we are of the view that the respondents should examine the claim without further delay and make the payment of admissible amount to the applicant without further delay. However, the reimbursement of the claim will be limited to the package deal as per the instructions of the Govt. of India. This has been approved by the Hon'ble Supreme Court in the case of State of Punjab Vs. Ram bhaya Bagga, 1998 (2) SLJ 335. The admissible rate to the applicant be determined on the date of treatment. The respondent no.2 is directed to examine and make payment of the admissible amount in view of our direction within a period of two months from the date of receipt of a copy of this order. In view of the fact that the applicant has already retired, if such a payment is not made within the aforesaid period of two months, he will also be paid interest at the rate of 6 (six) per cent per annum for the period of delay beyond two months.

6. In view of our directions in the preceding paragraph, this O.A. is disposed of. The parties are directed to bear their own costs.


(J.K. Kaushik)
Member (Judicial)


(R.K. Upadhy)
Member (Adm)

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पृष्ठंकन सं ओ/न्या.....जबलपुर, दि.....

पतिलिपि अवधि:-

(1) सचिव, राज्य न्यायालय जबलपुर, जबलपुर

(2) आवेदक श्री/श्रीमती/श्री.....के काउंसल SC Sharma, Adm. GWH

(3) प्रत्यक्षी श्री/श्रीमती/श्री.....के काउंसल Madhukar Rao, Adm. GWH

(4) ग्रंथपाल, राज्य न्यायालय जबलपुर

सूचना एवं आवेदक का निवेदन

2/5/03
उप सचिव