

CENTRAL ADMINISTRATIVE TRIBUNAL
JABALPUR BENCH, JABALPUR

O.A No. 667 of 2002

Jabalpur, this the 27th June 2003

Hon'ble Mr.D.C.Verma, Vice Chairman (J)
Hon'ble Mr.A.K.Bhatt, Member (A)

P.K.Khare,
Son of late S.P.Khare,
Assistant Works Manager,
Ordnance Factory Katni,
Resident of Qu. No. D/4, West Land,
Ordnance Factory Estate, Katni, M.P.
District : Katni, (M.P). Applicant

(Advocate & Mr. K. Datta)


VERSUS

1. Union of India, through
The Secretary, Defence Production
Ministry of Defence,
Government of India,
New Delhi.
2. The Chairman
Ordnance Factory Board,
10/A, Shaheed Khudiram Bose Road,
Kolkata, West Bengal.
3. The Principal Controller of Accounts
Office, of the Principal Controller of
Accounts (Fys), 10/A, Auckland Road,
Kolkata-1.
4. The General Manager,
Ordnance Factory Katni
District & Katni(M.P) Respondents

(Advocate : Mr. S.A.Dharmadhikari)


O R D E R (ORAL)

PER : Hon'ble Mr. D.C.Verma, Vice Chairman (J)




By this OA, the applicant has claimed that respondents be directed to sanction the actual expenses in the treatment at Bombay Hospital amounting to Rs. 79,489/- after quashing the respondent's order at Annexure A-1 and A-2.

2. The brief fact of the case is that the applicant who was working as Assistant Works Manager in Ordnance Factory met with an accident and was under treatment of Factory Hospital, Military Hospital and Medical College, Jabalpur. The Head of the Department of Orthopaedic vide Annexure A-3 advised surgery of hip replacement at Bombay Hospital as the same facility was not available at Jabalpur. The Directorate of Medical Education, Madhya Pradesh, Bhopal vide its letter dated 13-1-99 (Annexure A-4) accorded permission for treatment out side the State of Madhya Pradesh. Rs. 1,08,000/- was sanctioned ^{as advance} for the treatment of the applicant by the Factory Hospital. The applicant underwent the treatment at Bombay Hospital and deposited whole of Rs. 1,08,000/- in the Bombay Hospital wherein he was admitted on 24-2-99 and was discharged on 13-3-99. Of the total amount of Rs.1,08,000/- sanctioned by the Factory Authority, Rs.79,489/- was deducted by the Bombay Hospital and remaining amount of Rs. 28,511/- was returned back to the applicant. The applicant deposited the balance amount of Rs. 28,511/- with respondents. However, the respondents sanctioned Rs.65,938/- only and did not admit the claim of Rs. 13,551/- under C.G.H.S. rates. Hence, this OA.




3. We have gone through the pleadings on record and reply filed on behalf of the respondents. From the reply, we are unable to find out the items for which, the claim of the applicant has been disallowed to the tune of Rs.13,511/-. It is also not reflected in the reply that the applicant was at any stage informed or was given any showcause for disallowing his claim. As per the provisions of Rule 3(2) of Medical Attendance, the Controlling Officer has power to reject the claim, if he is not satisfied with its genuineness on facts and circumstances of the case, but this can be done only after giving an opportunity to the applicant of being heard in the matter. The provision further provides that while doing so, the Controlling Officer shall communicate to the claimant the reasons, in brief, for rejecting the claim and the claimant may submit an appeal within a period of forty-five days of the date of receipt of the order rejecting the claim. The provisions, thus shows that it was on the part of the respondents to inform about the reasons for rejecting the claim of the applicant and the applicant was to be given an opportunity of being heard in the matter. This provision has not been complied by the respondents and therefore, the order impugned in the present OA is not valid.

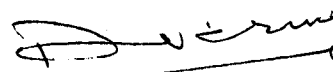
4. On behalf of the respondents, reliance has been placed on the decision of Apex Court in the case of State of Punjab V/s. Ram Lubhaya reported in 1998(2) SCC 1021. Learned counsel for the applicant has also placed reliance on various decision of this Tribunal, including the decision of Apex Court in case of Uma Shashi Thakur V/s. U.O.I.&Ors. in Civil Appeal Nos. 11541-11542 of 1996 decided on 30-8-96.



5. However, after considering various decision cited at the Bar, we are of the view that it is not necessary at this stage to go into the details of the cited decisions as we find that the respondents have not complied with the provision of the Rule 3(2) of Medical Attendance Rules as discussed in the preceding paragraph.

6. Consequently, we allow this OA and quash the order impugned in the case. It will be, however, open to the respondents to give an opportunity to the applicant as per the provision of Rule 3(2) of Medical Attendance Rules and thereafter, pass an appropriate order, thereon. This process shall, however, be completed by the respondents within a period of three months. If the applicant has any grievance, thereafter, it will be open for him to file an appeal as per provisions. The amount already deducted shall not be paid in case, the respondent decide to issue a show cause and proceed as per the provisions, but in case, the respondents do not take any decision thereon within a period of three months, the amount already deducted shall be paid to the applicant after expiry of said three months. Cost easy.


(A.K. Bhatt)
Member (A)


(D.C. Verma)
Vice Chairman (J)

NK

पृष्ठक सं ओ/न्या.....जबलपुर, दि.....
पतिविलिपि अग्रेहित -

- (1) सविन, उच्च न्यायालय काउंसिल, जबलपुर
(2) लोकायुक्त/डी.पी.जी./कु.....के काउंसिल
(3) लोकायुक्त/डी.पी.जी./कु.....के काउंसिल
(4) गंधर्व, को.प्र.अ., जबलपुर उपायवीर
सूचना एवं आवश्यक कार्यवाही हेतु

K. Datta.
S. A. Sharmaodhikan

M 4-7-63

उप रजिस्ट्रार

Received
7/7/63