

CENTRAL ADMINISTRATIVE TRIBUNAL
JABALPUR BENCH

OA No.749/02

Jabalpur, this the 5th day of August, 2004.

C O R A M

Hon'ble Mr.Sarweshwar Jha, Administrative Member
Hon'ble Mr.Madan Mohan, Judicial Member

Manik Chand Sahu
S/o Late Shyamlal Sahu
Working as Steno/TPP,
Permit No.031033/NIE
Vehicle Factory, Jabalpur
R/o House No.150 (Behind
A.P.N. School), Cantonment
Jabalpur (M.P.)

...Applicant

(By advocate Shri K.Datta)

Versus

1. Union of India through the
Secretary, Department of
Defence Production, Ministry
of Defence, New Delhi.
2. The Chairman
Ordnance Factory Board
10-A, Shaheed Khudiram Bose Road
Kolkata (West Bengal).
3. The General Manager
Vehicle Factory
Jabalpur.

...Respondents.

(By advocate Shri P.Shankaran)

O R D E R

By Madan Mohan, Judicial Member

By filing this OA, the applicant seeks the following
reliefs:


- (1) The impugned order be treated as wrong and illegal
i.e. Annexure A1 and to direct the respondents to
allow the reimbursement as claimed by the applicant
for his wife's treatment at this stage amounting
to Rs.27065 and also to direct sanction of any further
expenses for treatment as per the advice of Tata
Memorial Hospital, Mumbai.

2. The brief facts of the OA are as follows:

The applicant is working on the post of Stenographer
in the Vehicle Factory, Jabalpur. Applicant's wife was
referred by the Vehicle Factory Hospital, Jabalpur to
Medical College, Jabalpur for treatment as she was
suffering from cancer (Annexure A3). Before the medical
authority, the applicant expressed his desire for treatment
of his wife at Tata Memorial Hospital, Mumbai. The Government


of India, Ministry of Health & Family Welfare vide its order dated 26.3.2000 stipulates that if the treatment for a particular disease/procedure is available in the same city where the Govt. servant is employed, he may be permitted to avail of the medical services in any other city of his choice but in such cases, he will not be eligible for sanction of TA/DA (Annexure A6). Under the situation, in order to save the life of his wife, the applicant decided to have her treated at Tata Memorial Hospital, Mumbai. She was admitted in the hospital on 23.2.2001 and underwent surgery on 9th March 2001 and discharged from the hospital on 11.3.2001. Copy of the discharge certificate is marked as Annexure A7. The applicant incurred a total expenditure of Rs.27065/- towards the treatment taken in the hospital alone. The relevant bills/receipts issued by the Tata Memorial Hospital are marked as Annexure A8. As per the provisions of C.S.(M.A.) Rules 1944, the applicant is entitled for the reimbursement of the expenditure incurred by him for his wife's treatment. The applicant represented to the respondents for allowing the medical reimbursement as certified by the Tata Memorial Hospital along with the receipt of payment on 13.5.2001(A9). The respondents illegally denied reimbursement and returned all papers. Aggrieved, the applicant filed OA 454/2001 which was disposed of by the Tribunal directing the applicant to make a representation in accordance with the circular dated 28.3.2000 (Annexure A6). The applicant represented and the respondents again denied his claim. He further represented to the respondents and once again the respondents denied his claim. Hence this OA is filed.

3. Heard the learned counsel for both parties. It is argued on behalf of the applicant that the applicant's wife was referred by the Vehicle Factory Hospital, Jabalpur to Medical College Hospital, Jabalpur vide letter dated 18.2.2001 issued by Dr.A.K.Ray, Medical Officer. The




applicant had submitted a letter dated 20.2.2001 ~~to the Head of the Department of Cancer, Subhash Chandra Bose Hospital, Jabalpur~~ expressing his desire to have his wife referred to Tata Memorial Hospital, Mumbai for treatment of cancer, because that hospital is well known in the country for the treatment of cancer. The learned counsel has drawn our attention to a letter written by Easwardas Rohani, Deputy Speaker of Madhya Pradesh Legislative Assembly, dated 21.2.2001 in which he has mentioned that the wife of the applicant is suffering from breast cancer, hence she be admitted to Tata Memorial Hospital, Mumbai for treatment. The applicant has submitted essentiality certificate issued by the Tata Memorial Hospital ~~along with the~~ bill of expenditure incurred on the treatment of his wife (Annexure A8). The counsel argued that in accordance with the order dated 26th March 2000, the applicant was entitled for treatment of his wife at the Tata Memorial Hospital for cancer and the applicant has not claimed any TA/DA in connection with the treatment and he has claimed only the actual expenditure for the treatment of his wife in the Tata Memorial Hospital, Mumbai for which he is entitled and also entitled for further expenses as per the advice of the aforesaid hospital.

4. In reply, the learned counsel for respondents argued that the applicant received medical treatment for his wife at Tata Memorial Hospital, Mumbai without advice of AMA and without prior approval of the competent authority of the Department. Therefore, the claim was not found admissible for reimbursement as per rule. It is permissible to obtain treatment in emergent cases in medical institutions in relaxation of procedure i.e. without advice of AMA and without prior approval of the Department. However, in such cases, an emergency certificate is required to be furnished by the concerned hospital stating that the case is of real



emergency and if immediate medical attention is not provided, the life of the patient would have been endangered. The applicant has not furnished this emergency certificate issued by Tata Memorial Hospital, Mumbai with the medical claim or thereafter till date. Hence he is not entitled for the relief claimed.

5. After hearing the learned counsel for both parties and careful perusal of the records, we find that the applicant has furnished the bill for patient issued by the Tata Memorial Hospital dated 13.3.2001 and along with this bill he has also furnished the essentiality certificate. The applicant has also drawn our attention towards Annexure A3 letter dated 18.2.2001 issued by Dr.A.K.Ray, Medical Officer of Vehicle Factory Hospital, Jabalpur (hospital of the respondents) by which he has referred the case of applicant's wife to 'specialist cancer centre for management'. It is not disputed between the parties that the applicant's wife was not suffering from cancer. Tata Memorial Hospital, Mumbai is a well known institution for the treatment of cancer in India and the respondents have not denied this fact. The respondents have also not denied that the applicant was not entitled for the treatment of his wife in the aforesaid hospital. The respondents have only argued that the applicant did not seek sanction of the respondents while it was required as per OM dated 28.3.2000 (Annexure R1) and that the applicant has not furnished the emergency certificate issued by Tata Memorial Hospital with the medical claim or thereafter till date while the applicant has submitted the essentiality certificate issued by that hospital (Annexure A8).



6. Considering the letter of Dr.A.K.Ray, Medical Officer, Vehicle Factory Hospital, Jabalpur (hospital of the respondents), the representation of the applicant dated 20.2.2001 (Annexure A4) to the Head of the Department of Cancer, Subhash Chandra Bose Hospital, Jabalpur, we are of the considered opinion that the applicant is legally entitled for the relief claimed by him in this OA and hence the OA deserves to be allowed.

7. The OA is allowed. Impugned order dated 29.5.2001 (Annexure A1) is quashed and set aside. The respondents are directed to allow the reimbursement as claimed by the applicant for the treatment of his wife, amounting to Rs.27065/-. The respondents are further directed to sanction any further expenses for the treatment of the applicant's wife as per the advice of Tata Memorial Hospital, Mumbai, in accordance with rules.

(Madan Mohan)
Judicial Member

(Sarweshwar Jha)
Administrative Member

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पृष्ठंकन सं ओ/ज्या.....जलपुर, दि.....
प्रतिलिपि अब्बे दिताः--

- (1) सचिव, राज्य न्यायालय और ए.जे.सि.ए.डी.न, जयपुर
- (2) आवेक श्री/श्रीमती/शु. को कांस्टेबल
- (3) प्रत्यर्थी श्री/श्रीमती/शु. को कांस्टेबल
- (4) ग्रंथपाल, ए.जे.स.ए., जयपुर न्यायाधीश
सचना एवं आवश्यक कार्रवाई हेतु

उप रजिस्ट्रार

K. Dutta

P. Shankar

16-8-04

Issued
on 16.8.04
BS