

10

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No.438 of 2000

Jabalpur, this the 3rd day of January, 2003.

Hon'ble Mr.R.K.Upadhyaya, Member (Admnv.)

Nepal Kumar Das, aged about 58 years,
son of late A.C.Das, employed as
Machinest High Skill Grade-I, In Gun
Carriage Factory, Jabalpur, Resident of
359/1, Type-II, Parel Line, GCF Estate,
Jabalpur (M.P.)

-APPLICANT

(By Advocate- Mr.Ramesh Shivastava)

Versus

1. Union of India through
Secretary, Ministry of Defence,
New Delhi.
2. General Manager,
Gun Carriage Factory, Jabalpur.
3. Chief Controller of Defence Accounts,
Calcutta.
4. Chairman Director General ,
Ordnance Factories, 10A, Auckland
Road, Calcutta.

-RESPONDENTS

(By Advocate- Mr.P.Shankaran for
Mr.S.A.Dharmadhikari)

O R D E R (ORAL)

The applicant was an employee of Gun Carriage
Factory, Jabalpur at the relevant time. While in service,
the applicant was suffering from Hypertension (IHD), and
got examined himself in Gun Carriage Factory Hospital,
Jabalpur. On 13.7.1999, Gun Carriage Factory Dispensary
referred the applicant to the Medical College Hospital,
Jabalpur. The applicant was examined by Medical College
Hospital, Jabalpur, which referred the case of the
applicant for treatment to C.M.C. Hospital, Vallour.
Initially the applicant was granted a medical advance
of Rs.14,500/- for undergoing angiogram for which

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expenditure of Rs.13,719/- was incurred during the treatment of the applicant at CMC Hospital, Vellore between 11.9.1999 to 15.9.1999 as can be seen from In-Patient Medical Report dated 15.9.1999 (Annexure A/8). Subsequently, the applicant was advised to undergo Angioplasty for which he was given advance amount of Rs.85,500/- and the applicant underwent the treatment at CMC Hospital, Vellore between 11.12.99 to 17.12.99 as per report dated 18.12.99 (Annexure A/11). The applicant filed reimbursement claim of the expenditure of Rs.92,257/-, but the respondents have sanctioned only part of it. The learned counsel of the applicant states that in view of the provisions contained in Rule 6 of the Central Services (Medical Attendance) Rules, 1944 the applicant is entitled to free treatment. He also invited attention to the order of this Tribunal dated 4.2.2000 in OA No.781/1999 in the case of Shiv Nath Ojha Vs. Union of India & another (Annexure A/15) wherein this Tribunal directed the respondents to full reimbursement, ^g Relying on the decision of Hon'ble Supreme Court in the case of Uma Shashi Thakur Vs. Union of India and others, Civil Appeal Nos.11541-11542 of 1996 decided on 30.8.1996, The learned counsel states that the applicant has not been given any order of rejection of his any part of his claim and recovery has been started from the pay-slip. According to the learned counsel of the applicant, the applicant is entitled to full reimbursement of medical expenses. Therefore, no recovery be ^h made.

2. The learned counsel of the respondents invited attention to the reply filed, wherein it has been stated that the applicant had taken two medical advances amounting to Rs.14,850/- and Rs.85,500/- respectively.

Annexure

Against the first medical advance of Rs.14,850/-, the applicant deposited back Rs.1,484/- and the claim of Rs.13,719/- was sent to the Accounts Officer, who has passed the same of Rs.12,000/- only.

2.1 The second medical advance of Rs.85,500/- was sanctioned to the applicant. The applicant had submitted a claim of Rs.92,257/-. However, the same has been passed for Rs.71,407/- according to the existing Rules/Scheduled rates in this regard. Therefore, the debit balances of Rs.1,366/- and Rs.14,093/- arisen against the applicant are being recovered from the regular wages roll of the individual in hand, and also that these are to be recovered in not more than four instalments.

3. The learned counsel of the respondents further stated that even the permission to out of M.P. treatment was given on specific condition relating to the extent of reimbursement of expenses. The respondents have also filed M.A.No.1007/2002 for taking judgements on record and dismissal of O.A. In this Misc. Application, the respondents have placed reliance on the order of this Tribunal dated 21.5.2002 in OA No.316 of 2001 in the case of J.B.Mitra Vs. Union of India & Ors. wherein this Tribunal has held that in view of the decision of Hon'ble Supreme Court in the case of State of Punjab Vs. Ram Lubhaya Bagga, 1998 (2) SLJ 35 the applicant was only entitled for the maximum reimbursement as envisaged under the rules to the extent of package deal. The respondents have also made a reference to other decisions of other benches including the Principal Bench order dated 5.2.2001 in OA No.1610/1998 in the case of Santosh

Amrinder

Kumar Singh vs. Union of India & Ors. where similar view has been taken.

4. After hearing the learned counsel of both the parties, and after perusal the records, it is noticed that the applicant has taken treatment during the period from 11.9.1999 to 15.9.1999 and between 11.12.1999 to 17.12.1999. Therefore, the respondents are directed to examine whether the applicant has been given reimbursement as per rates applicable at that point of time as per package deal. If any excess amount is admissible, the same should be paid to the applicant within a period of three months.^{So} for claim of the applicant regarding admissibility of full medical expenses is concerned, the same is not accepted in view of the decision of the Bench of this Tribunal, which have taken the decision after relying on the decision of Full Bench of Hon'ble Supreme Court, which is subsequent to the decision in the case of Uma Shashi Thakur (supra). The subsequent decision in the case of State of Punjab Vs. Ram Lubhaya Bagga is decided by ~~constituted~~ Bench of three judges on 26.2.98, whereas the decision relied by the earlier Bench of this Tribunal in the case of Dwarka Prasad Nema Vs. Union of India in CA No.178/99 has relied on the decision, which is 30.8.1996 of two judges. In case, the applicant is not satisfied with the payment as per package deal applicable on the date of the treatment, he will be at liberty to file a representation to the Ministry of Health and Family Welfare praying for full reimbursement with the respondents^{who} will forward^{it} for their consideration.

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(R.K.Upadhyaya)
Member (Adm.v.)

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63