

CENTRAL ADMINISTRATIVE TRIBUNAL,

JAIPUR BENCH, JAIPUR.

O.A.No.222 of 2005

Decided on: October 18/11. 2006

CORAM : HON'BLE MR. KULDIP SINGH, VICE CHAIRMAN (JUDICIAL)

R.C.Mitra S/o Sh. Biharilal Mitra, aged about 73 years, r/o C-15, Mohan Marg, Roop Vihar Colony, New Sanganer Road, Jaipur-302019.

By: Mr. Amod Kashliwal, Advocate.

Versus

1. Union of India through Secretary, Ministry of Health and Family Welfare, Government of India, Nirman Bhawan, New Delhi.
2. The Director General, Directorate of C.G.H.S., Room No.425, Nirman Bhawan, New Delhi-110011.
3. The Additional Director, C.G.H.S. Radha Kishan Hotel premises, Opp. Jaipur railway Station road, Jaipur-302006.

By : Mr.Kunal Rawat, Advocate.

O R D E R

Per Hon'ble Mr. KULDIP SINGH, VC

The applicant has filed this O.A. to challenge the order dated 7.3.2005 (Annexure A-1) passed by the respondents wherein only a sum of Rs.2,64,350/- had been allowed to the applicant against the total medical reimbursement claim of Rs.5,08,000/-.

The facts as alleged by the applicant in brief are that the applicant is a retired employee of the respondent department and is governed by the CGHS Scheme for medical treatment. The applicant is resident of Jaipur where CGHS Scheme is applicable. The applicant holds valid CGHS Card also.

The applicant suffered from unstable Angina due to which he was examined in SMS Hospital, Jaipur. The Doctors

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of the said Hospital found the applicant to be suffering from acute heart problem and advised him to undergo coronary angiograph for which the applicant required specialized treatment and as the best facilities as well as specialized treatment is available at the Escorts Heart Institute & Research Centre, New Delhi, duly recognized by CGHS for treatment of heart diseases. The applicant applied for and was accorded sanction by the CGHS for taking treatment from Escorts Heart Institute & Research Centre, New Delhi, vide letter dated 5.2.2004 (annexure A-3), by Additional Director, CGHS, Jaipur. The sanction had a clause that according to the existing orders, the entitlement was as per the orders applicable on the date of issue of the sanction order and if any excess amount beyond the entitlement / package is charged by the Hospital or is incurred by the patient, the same shall be borne by the beneficiary itself.

After obtaining this sanction, the applicant was admitted in the Escorts Heart Institute & Research Centre, where he had underwent coronary angiography which indicated severe / acute blockades in three arteries, angioplasty was done and three cipher stents were put / Installed/ inserted in the blocked arteries of the applicant on the same day and after two days rest, he was discharged on 12.2.2004.

For this treatment, the Escorts Hospital raised a bill of Rs.5,08,000/-. However, ~~after~~^{as} the Hospital declined to give credit facility to the applicant on the ground his being from outside Delhi, he was forced to pay the bill in cash. Though credit facilities are available to the

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beneficiaries of CGHS who are registered in Delhi. He was hopeful that the bill would be reimbursed soon as the bill issued by the Hospital was in accordance with the rules for package as approved by the CGHS itself. Copy of the bill is Annexure A-4. Accordingly, the applicant was entitled for full reimbursement of the medical expenses incurred by him for his treatment. The applicant has also annexed photocopy of the Angiography report and the photocopy of the angioplasty report dated 10.2.2004, as well as the certificate dated 26.2.2004 as Annexures A-6 to A-8. Despite all these formalities, the applicant has not been given reimbursement. However, the applicant received letter dated 26.3.2004 from the respondent No.3 asking the applicant to provide the C.D. of the Angiography for settlement of the claim by the Screening Committee (Annexure A-9). In compliance, the applicant submitted the C.D. to the respondent no.3 on 29.3.2004. The applicant had been requesting to the respondent no.3 continuously for the payment of his medical bill. Finding no response, he submitted a representation dated 18.1.2005 (Annexure A-10). He was informed by the letter dated 7.3.2005 (Annexure A-1) ~~informing him~~ that as per recommendation of the Screening Committee only a sum of Rs.2,64,350/- has been found admissible to the applicant. He was further asked to submit an undertaking that he would not make any claim over and above the said amount. Thus, out of total claim of Rs.5,08,000/-, the said order has been allowed only a sum of Rs.2,64,350, against his entitlement of full reimbursement. The applicant again submitted a

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representation dated 22.3.2005, asking the respondents to disclose the reasons for denial of claim for the balance amount and refusing to submit any undertaking. He asked the respondents to withdraw the ^{Conditional} demand and to forthwith make the payment. Again applicant was asked to submit the C.D. and other documents and the applicant submitted the same. He submits that all this was done to delay the matter. Thereafter the applicant served a demand notice but still no relief was granted to him.

In the grounds to challenge the impugned order, the applicant pleads that since he retired from Government of India, he is governed under the CGHS Scheme and as such is entitled to the full reimbursement as he has taken treatment from a recognized Hospital. The imposition of undertaking for payment of partial amount is also bad. Thus, the applicant has prayed for reimbursement of the full amount as well as action of respondents for taking undertaking. He also claims interest on the amounts spent by him.

Respondents are contesting the O.A. Respondents in their reply pleaded that since the claim of the applicant has already been settled and a sum of Rs.2,64,350/- against claim of Rs.5,08,000/- has been paid to him as per the provisions of the rules and law. Respondents also plead that Central Government has not given free hand to make claim to the members / beneficiaries of the CGHS. The scheme provides the medical facility to the members/ beneficiaries against certain orders and norms issued by the Government of India from time to time. It is also submitted that the

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use of cipher stents also found not justified by the AIIMS, New Delhi. The applicant is entitled for the facility of treatment and reimbursement from the respondent department as per the orders issued by the Government from time to time. The Government of India has specifically issued an order on 10.3.2003. The respondents issued sanction for treatment of applicant dated 5.2.2004, by which he was allowed angiography at Escort Heart institute & Research Centre, New Delhi. According to order dated 10.3.2003, reimbursement/ permission for the use of Cipher Stent to the CGHS beneficiaries would be made where restenosis involves / would involve high risk to the patient's life in the following cases:

- (a) Osteal/Proximal LAD Lesions.
- (b) Stenosis of a Coronary Artery, which is giving collaterals to another, blocked artery, thus, supplying large area of myocardium.
- (c) Stenting of restenotic lesions after previous angioplasty.

Thus, to ensure that Cipher Stent fitted as per the guidelines, the case of the applicant was referred to the Committee constituted with Dr. Prof. R.K.Madhok, Head of Deptt. Of Cardiology, SMS Medical College & Hospital, Jaipur and Dr. N.P.Grover, Consultant in Medicine, CGHS, Jaipur. The committee recommended that "Patient has TVD - 3 Cipher Stent applied (Proximal LAD, Mid Circumflex and distal RCA) Proximal LAD Stent falls under guidelines for Cipher Stent use". The matter was referred by the Respondent No.2 to Cardio-Thoracic Sciences Centre, AIIMS,

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who submitted the report (Annexure R-2) indicating that the use of 3 Cipher Stent is not justified. Thus, the respondents have restricted the claim of the applicant for Rs.2,64,530/-.

I have heard the learned counsel for the parties and perused the material on the file.

It is not the case of the respondents that the applicant had undergone the treatment at Escorts Hospital, without prior permission. The stents were inserted during the process of angio plasty on the same day. When a patient is referred to a recognized Hospital, he is at the command of the doctors and treatment is to be provided by them and while he is on operation table, how he can seek prior permission to get cipher stent inserted when the doctors who is performing operation is of the opinion that the cipher stent has to be inserted. It is not possible for a patient at all to seek prior permission. The prior permission is only required when a patient seeks to get himself treated at a recognized hospital and inform the purpose as to how he is to be treated. In this case the applicant had already sought permission from Additional director General, CGHS, vide Annexure A-3, to be treated for Coronary Angio plasty/ Angio Graphy from Escorts Hospital, New Delhi. If Escorts Hospital decided to fix the cipher stent against the norms issued by the CGHS authorities for that the patient cannot have anything to do. That is a matter between the Ministry of Health & Welfare and Escorts Hospital, which has been recognized by the Ministry of Health for giving treatment to the CGHS

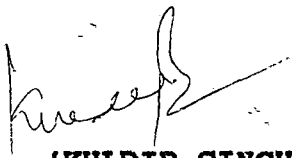


beneficiaries and in case any Hospital or doctor acts against the instructions issued by the Ministry of Health and Family welfare, then matter should be settled between themselves, hospital may be de-recognized or Doctors may be de empanelled for such type of operation. For that purpose, the patient cannot be blamed.

Even the letter dated 10.3.2003 which deals with the subject of provision of cipher stent (serolimus eluding coronary stents) to the CGHS beneficiaries, also provides that for fixing two cipher stent, permission can be given by the Additional Director/ Joint Director of CGHS and in exceptional cases, requiring more than two stents, approval of Director, CGHS is required before making reimbursement. This letter thus recognized certain circumstances where more than 2 stents are required to be affixed, permission is required from the Director, CGHS and payment and if a patient while on the operation table is given the treatment affixing more than 2 cipher stents, that too by a recognized Hospital of the CGHS/Ministry of Health & Family welfare, where the patient had gone for treatment after obtaining prior permission for the purpose of undergoing angiography / angioplasty/patient could not know before as to how many stents are required to be affixed in this angiography, so question of prior permission for affixing more than 2 cipher stents does not arise. It may further be mentioned that the letter dated 10.3.2003 (Annexure R-1), provides certain conditions where the restenosis involves / would involve high risk to the patient's life, than insertion of such as Osteal / proximal LD lesions;

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Stenosis of a coronary artery, which is giving collaterals to another, blocked artery, thus supplying large area of myocardium and stenting of restenotic lesions after previous angioplasty. Even the Certificate issued by the Doctors also shows that condition of the patient was such that LAD-70% Proximal, LC 80% Mid stenosis. RCA - 90% Distal Stenosis. Though the Doctors at AIIMS had taken a different opinion regarding fixing of cipher stent and opined for placing of cipher was unjustified, it may be that the two doctors are ~~the~~ differing in their opinion but the fact remains that the condition of the patient in the opinion of Doctor performing operation required that cipher stents were to be fixed. So in these circumstances, I find that opinion obtained by the respondents from AIIMS after the operation of the applicant should not come in the way of the grant of reimbursement to the applicant particularly when the applicant had taken treatment after the approval from the Additional Director of CGHS. Hence, I am of the considered view that applicant is entitled to full reimbursement. Accordingly the O.A is allowed. Impugned order, Annexure A-1 is quashed and set aside. Learned counsel for applicant states that the amount already sanctioned has been paid to the applicant which is apparent from the order dated 17.5.2006. The balance amount may be paid to the applicant within a period of two months from the date of receipt of copy of his order failing which applicant shall be entitled to interest @9% per annum from today. No costs.


(KULDIP SINGH)
Vice Chairman (J)