

(13)

OA 328/2005 with MA 422/2005 & 192/2006

17.4.07

Mr. V.P. Mishra, counsel for applicant.
Mr. Arun Kumar Agarwal, counsel for respondents.

Heard the learned counsels for the parties.

MA 422/2005 has been moved by the respondents praying for deletion of the name of respondent no. 1 from the array of the respondents. In view of the averments made in the MA, the MA is allowed and the name of respondent no. 1 stands deleted from the array of the respondents.

MA stands disposed of accordingly.

MA 192/2006 has been moved by the applicants praying for a direction to the respondents to produce the relevant record.

Though ~~the~~ a direction was given to the respondents to produce the relevant record at the time of hearing, but no record was produced by them and the case was taken up for hearing and was heard ~~is~~ without the record. Hence MA 192/2006 has become inoperative and stands disposed of accordingly.

OA 328/2005

Heard. The OA stands disposed of by a separate order.

Om Prakash
(S. L. Shukla)
S. L. Shukla
S. L. Shukla

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH, JAIPUR.

Jaipur, the 17th day of April, 2007

ORIGINAL APPLICATION NO.378/2005

CORAM :

HON'BLE MR.J.P.SHUKLA, ADMINISTRATIVE MEMBER

J.P.Chawla
s/o Shri H.R.Chawla
r/o 19, Railway Housing Society,
Mala Road,
Kota Jn.

By Advocate : Shri V.P.Mishra

... Applicant

Versus

1. Chief Medical Director,
Railway Board,
Railway Bhawan,
New Delhi.
2. Medical Director,
Western Railway,
Churchgate,
Mumbai.
3. Chief Medical Superintendent,
West Central Railway,
Kota.

By Advocate : Shri Anupam Agarwal

... Respondents

ORDER (ORAL)

PER HON'BLE MR.J.P.SHUKLA

Heard the learned counsel for the parties. Facts of the case, as alleged by the applicant in brief, are that the applicant retired from the post of Assistant Engineer (Construction), Kota, and he has been a member of the Railway Employees Liberalised Health Scheme (RELHS) and as such entitled to medical treatment at railway's expenses for himself and his family at par with

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the serving railway employees at the railway hospital or at any other hospital in case the required treatment is not available in the railway hospital or in any government or recognized hospital where the case is referred to by the railway doctor. Applicant's wife had been a patient of unstable angina and diabetes since October, 1980 and undergoing treatment at the railway hospital, Kota. On 14.4.2002, the applicant alongwith his wife went to visit his son at Kalkaji Extension, New Delhi. On 15.4.2002, his wife suddenly got pain in her chest and as such hurriedly they had to rush to nearby Batra Heart Centre where, after angiography and other tests, bypass surgery was done on 17.4.2002 to save the life of applicant's wife. On 28.4.2002, applicant's wife fell down in the hospital itself and got her hip thigh bone fractured and, therefore, she was also operated upon the same day. She was discharged from the Batra Hospital on 5.5.2002.

2. It was pleaded by the learned counsel for the applicant that for angiography and bypass surgery, Northern Railway employees are sent, on railway expenses, to Batra Hospital, which is a recognized hospital of the Railways. The applicant submitted the medical bill of the expenses incurred by him on the treatment of his wife, amounting to Rs.2,07,663/- alongwith the vouchers, to the respondents and requested for reimbursement of the same being a registered member of RELHS. But, in spite of the long period, reimbursement of the medical bill has not been made in favour of the applicant.

3. It was argued by the learned counsel for the applicant that Batra Hospital is a referral hospital of the Railways and the respondents have not denied this fact. The specialist doctors in the Batra Hospital were the best judge to decide on the spot that it was an emergent situation

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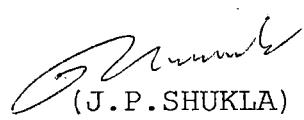
warranting bypass surgery as early as possible. In this connection, learned counsel for the applicant also placed reliance on a decision rendered by the Principal Bench of this Tribunal in the case of **S.R.Jha v. Union of India & Others**, 2003 (2) ATJ 168, in support of his case. It is specifically covered in the judgement (supra) that; "even non-referral cases where the patients have been admitted in emergency, as the present case, the claims are admissible and to be recommended on the basis that amount that would have been charged by Govt.Hospital/Railway Hospital from non-railway patients or the expenditure of railway recognized hospital in such non-referral cases is to be allowed.

4. The fact that Batra Hospital is a referral hospital of the Railway was not disputed by the learned counsel for the respondents during the course of arguments. Learned counsel for the respondents submitted that the case of the applicant for reimbursement of medical bill has been rejected by the Railway Board on the ground that it was not an emergent situation and the applicant had a calculated move to go to Delhi to approach the private hospital. He being a retired and responsible railway officer having full knowledge of the railway rules failed to make even *expostfacto* information/reference for such private treatment, which shows his calculated move to have the treatment of his wife in a private hospital and, therefore, the applicant is not entitled to the reimbursement in question. In this connection, he also referred to the Railway Board's Order, 1999, on the subject; "Retired Railway Employees - Medical facilities at par with serving employees".

4. After having heard the learned counsel for the parties and perusal of the records, it is observed that it is a fact that wife of the

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applicant was admitted in Batra Hospital, where it was considered emergent by the specialists doctors to operate ^{for} bypass surgery and later on the treatment for hip thigh bone fracture also. No patient or railway employee, retired or working, would like to undergo bypass surgery until and unless a specialist doctor recommends for the same. Moreover, Batra Hospital is a referral hospital of the railway and, therefore, this Tribunal feels that ends of justice will be met if a direction is given to the respondents to reimburse the medical bill submitted by the applicant limited to the rate prescribed or fixed between the Railways and the Batra Hospital, within a period of three months from the date of receipt of a copy of this order. Ordered accordingly. No costs.



(J.P. SHUKLA)
MEMBER (A)

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