

**CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR**

ORDER SHEET

ORDERS OF THE TRIBUNAL

15.01.2009

OA No. 173/2007

Mr. P.N. Jatti, Proxy counsel for
Mr. Vinod Goyal, Counsel for applicant.
Mr. Gaurav Jain, Counsel for respondents.

On the request of the proxy counsel appearing on
behalf of the applicant, list it on 16.09.2009.


(B.L.KHATRI)
MEMBER (A)

AHQ

16.01.2009

OA No. 173/2007

Mr. Vinod Goyal, Counsel for applicant.
Mr. Gaurav Jain, Counsel for respondents.

Heard learned counsel for the parties.

For the reasons dictated separately, the OA is
disposed of.


(B.L.KHATRI)
MEMBER (A)

AHQ

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH

Jaipur, this the 16th day of January, 2009

ORIGINAL APPLICATION NO. 173/2007

CORAM:

HON'BLE MR. B.L. KHATRI, ADMINISTRATIVE MEMBER

Prashant Sharma son of Shri K.D. Sharma, aged about 31 years, resident of Vinayak Lane, Matches Factory, Daduwara, Kota Junction (Rajasthan). Presently posted as Postal Assistant, Head Office, Kota.

.....APPLICANT

(By Advocate: Mr. Vinod Goyal)

VERSUS

1. Union of India through the Chief Post Master General, Department of Posts, Rajasthan Circle, Jaipur.
2. Post Master General, South Zone, Department of Post, Ajmer.
3. The Senior Superintendent of Post Office, Kota Division, Kota.

.....RESPONDENTS

(By Advocate: Mr. Gaurav Jain)

ORDER (ORAL)

PER HON'BLE MR. B.L. KHATRI

This OA has been filed against the order dated 30.03.2007 (Annexure A/1) and 13.03.2007 (Annexure A/2) whereby the medical claim with regard to newly born baby of the applicant was disallowed for the reasons that this claim does not fall under the definition of urgency as defined under Para (1) of Appendix VIII to Central Services (Medical Attendance) Rules 1944.

2. Brief facts of the case are that a girl child was born on 15.04.2006 to the applicant. She was suffering from heart disease by

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birth. She also suffered from bronchitis septicemia infection and then she was admitted in the prevailing circumstances in Sudha Hospital & Research Centre, Kota on 26.05.2006 and was referred on the same day to higher center for critical care management. Due to critical condition of the baby child, the applicant admitted her at Santokba Durlabhji Memorial Hospital Jaipur wherein she remained admitted from 27.05.2006 to 11.06.2006. Thereafter she was admitted at Escorts Heart Institute & Research Centre, New Delhi where she remained from 12.06.2006 to 14.06.2006. Again she was admitted at Santokba Durlabhji Hospital from 19.06.2006 to 25.06.2006. Lastly due to the critical condition of the baby child, she was admitted from 25.06.2006 to 28.07.2006 at Escort Heart Institute & Research Centre, New Delhi and was discharged on 28.07.2006.

3. The fact that the baby of the applicant was admitted in Santokba Durlabhji Memorial Hospital, Jaipur from 27.05.2006 to 11.06.2006 and 19.06.2006 to 25.06.2006, the Doctor of the Hospital issued a Certificate dated 30.01.2007 (Annexure A/4) stating therein that the baby was in critical condition and because of heart disease, critical care ambulance was necessary for her transport to Delhi for further treatment.

4. The applicant submitted the medical bills containing the expenses incurred upon the treatment of his daughter within the time prescribed under the CS (MA) Rules, 1944. But the same has been rejected vide impugned order dated 30.03.2007 (Annexure A/1) and 13.03.2007 (Annexure A/2) stating therein that the case of the applicant does not come under the definition of the urgency as per the Rules of 1944. According to the applicant, the respondents have not considered the matter in the right perspective as per the rules of CS (MA), 1944 as much as the medical certificate issued by the authority clearly shows that the patient was in critical condition due to which she was admitted in private hospital. The opinion of the Director General

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of Medical Health Services has also not been sought in coming to the conclusion that whether the urgency was involved or not.

5. Learned counsel for the applicant had relied upon the following case laws for proposition that in emergency situation, treatment can be taken from any private hospital without approval of the appropriate authority:-

- (I) Raghunath Prasad Sharma vs. State of Rajasthan & Others
Western Law Cases (Raj.) 2007(4) 186
- (II) Dr. Vandana Gupta vs. State of Rajasthan
Western Law Cases (Raj.) 2007(4) 190
- (iii) Pawan Kumar Sharma vs. State of Rajasthan & Others
Western Law Cases (Raj.) 2007 (3) 407

6. Learned counsel for the respondents had also inter-alia, contended that:-

- (i) That the explanation of the applicant was forwarded to the respondent no. 2 vide letter dated 11.01.2007 by the respondent no. 3 and the respondent no. 2 vide his letter dated 22.01.2007 called for Emergency Certificate from Hospital Authorities for reimbursement of Ambulance Charges according to Appendix VIII of CS (MA) Rules.
- (ii) That the competent authority upon taking into consideration the relevant facts and the position of law, vide letter dated 01.03.2007, rejected the medical reimbursement of the applicant and he was accordingly informed vide letter dated 13.03.2007 by respondent no. 3. It was submitted that the applicant got his daughter first admitted in Sudha Hospital and Medical Research Centre Private Limited Kota which is not a recognized Hospital for treatment under CS (MA) Rules, 1944. Sudha Hospital has referred the case to higher center on the

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same day and the applicant took his daughter to Santokba Durlabhji Hospital, Jaipur which is recognized for General purpose treatment and diagnostic procedures except Oncology Cardiac Surgery and Transplantation for the CGHS beneficiaries and not for the treatment of employees covered under the CS(MA) Rules, 1944. It is submitted that in Jaipur, in SMS Hospital all facilities are available and the applicant being a Government servant covered under the CS(MA) Rules would have availed the specialist services available in the Government Hospital instead of going to a private Hospital which is not authorized for the employees covered under CS(MA) Rules.

- (III) That Santokba Durlabhji Hospital further referred the case to Higher Center and the applicant got his daughter admitted in Escort Hospital, New Delhi from 12.06.2006 to 14.06.2006 and thereafter he again got his daughter admitted in SDM Hospital from 19.06.2006 to 25.06.2006 and again at Escort Hospital, Delhi from 25.06.2006 to 28.07.2006. The applicant failed to furnish any document or certificate from the Government Hospitals at Kota, Jaipur or Delhi regarding non availability of such specialized services required by him. The applicant has also failed to obtain any prior permission from the competent authority to get the treatment of his daughter from private Hospitals. Further, the availing of treatment in four different private Hospitals at different times does not come under the definition of 'urgency' as defined under Para 11(1) of Appendix VIII to CS (MA) Rules. Consequently, the claim for reimbursement of medical bills of the applicant has been rejected and rightly so and the grounds of rejection were duly communicated to the applicant vide letter dated 20.03.2007. Filing of the

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present original application is, therefore, wholly misconceived and the same is liable to be rejected.

7. Learned counsel for the respondents vehemently contended that the claim of the applicant should not be entertained as this claim is not covered by the Para 1 and Para 5 of Appendix VIII of Rule CS (MA) Rules, 1944

8. I have heard learned counsel for the parties and have perused the case laws and record of the case. Facts of the case had already been mentioned in this order. Learned counsel for the applicant had relied upon case of Raghanath Prasad Sharma (supra) wherein it was held that in emergency case, treatment can be taken at AIIMS without taking advice of Medical Board. Normal procedure not applicable in emergency.

9. Learned counsel for the applicant had also relied upon the case of Pawan Kumar Sharma (supra) wherein it was held that heart patients require immediate treatment, technicality of prior permission for surgery at Escorts Heart Institute cannot be insisted – Emergency sees no laws. Respondents were directed to reimburse the entire amount.

10. In order to see the emergent situation for treatment of the newly born baby of the applicant, it is considered pertinent to reproduce relevant rule i.e. Para No. 1 and Para No. 5 under Appendix VIII of CS (MA) rules, 1944, which reads as under:-

"(1) Procedure for obtaining treatment from private medical institutions in emergent cases -

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 (1) Circumstances to justify treatment in private medical Institution. – In emergent cases involving accidents, serious nature of disease, etc., the person/persons

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on the spot may use their discretion for taking the patient for treatment in a private hospital in case no Government or recognized hospital is available nearer than the private hospital. The Controlling Authority/Department will decide on the merits of the case whether it was a case of real emergency necessitating admission in a private institution. If the Controlling Authorities/Department has any doubt, they may make a reference to the Director General of Health Services of opinion.

- (5) **When treatment had in recognized hospital without following the procedure.** - Instances have also been noticed where treatment in emergencies has been obtained in hospitals recognized either under the CS (MA) Rules, 1944 or under the Central Government Health Scheme even though they had not been formally referred by the Authorised Medical Attendant. In such cases, where in emergencies, treatment is obtained in hospitals recognized under the Central Government Health Scheme or under the CS(MA) Rules, 1944, even though the procedure prescribed therefore had not been followed, the reimbursement may be allowed in full in accordance with the rates as approved under the CS(MA) Rules, 1944, or under the Central Government Health Scheme, as may be applicable subject to the extent admissible under the CS (MA) Rules, 1944 and fulfillment of other codal requirements thereunder."

12. After perusal of the record, I find that as per certificate of the Hospital, the newly born baby was in critical condition that is why she had been taken treatment in various private hospitals between the periods from 26.05.2006 to 28.07.2006. The detail of which as under:-

Sl.No.	Period of treatment	Name of Hospital	Annexure No.	Amount Rs.
(i)	26.05.2006	Sudha Hospital, KOTA	A/3	5,303.00
(ii)	27.05.2006 to 11.06.2006	SDM Hospital, Jaipur	A/4	21,602.85
(iii)	12.06.2006 to 14.06.2006	Escort Hospital, New Delhi	A/5	16,790.94
(iv)	19.06.2006 to 25.06.2006	SDM Hospital, Jaipur	A/4	29,419.29
(v)	25.06.2006 to 28.07.2006	Escort Hospital, New Delhi	A/6	1,59,419.00

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13. After considering the relevant rule, the case¹⁴¹² and the facts & circumstances of the case, I am of the opinion that the patient was admitted to Sudha Hospital, Kota, SDM Hospital, Jaipur and Escort Hospital Hospital, New Delhi under emergent situation as per Annexure A/3, A/4 and A/5. Therefore, the respondents are directed to entertain the medical claim of the baby in respect of the above hospitals for the period from 26.05.2006 to 14.06.2006.

14. As regards the other claims of the applicant for the period w.e.f. 19.06.2006 to 25.06.2006 in SDM Hospital, Jaipur mentioned at sl. No. (iv) and for the period w.e.f. 25.05.2006 to 28.07.2006 in Escort Hospital, New Delhi, mentioned at sl. No. (v), the respondents are directed to make self contained reference alongwith certificate of these hospitals to the Director General for Health Services. The claim of the applicant should be decided as per the advice of the Director General for Health Services.

14. With these observations, the OA stands disposed of. No costs.


(B.L. KHATRI)
MEMBER (A)

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