

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH, JAIPUR.

Jaipur, the 24th day of May, 2011

ORIGINAL APPLICATION No.583/2009

CORAM :

HON'BLE MR.ANIL KUMAR, ADMINISITRATIVE MEMBER

Lallu Ram Son of Late Shri Harbux, aged about 56 years,
Resident of House No. 13, Rajdeep Colony Meenawala Sirsi
Road, Jaipur and presently working as Senior peon Office
D.P.M. North Western Railway, Jaipur.

... Applicant

(By Advocate : Shri C.B.Sharma)

Versus

1. Union of India through
General Manager,
North Western Zone, North-Western Railway,
Jaipur.
2. Senior Divisional Finance Manager,
North Western Railway,
Jaipur-302006.
3. Chief Medical Director,
North Western Railway,
Office of General Manager,
North-Western Zone, North Western
Railway, Jaipur 302006.
4. Chief Medical Superintendent,
Railway Hospital, North-Western Railway,
Jaipur-302006.

... Respondents

(By Advocate : Shri Hawa Singh)

ORDER (ORAL)

This is second round of litigation. The applicant had
filed earlier OA01/2009 regarding reimbursement of
medical expenses. This Tribunal issued the following
directions:-

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After having considered the facts of the case, it is considered necessary to direct the applicant to file a self-contained representation, within a fortnight from the date of this order, alongwith the justification regarding emergent condition of the patient by the doctor of the aforesaid private hospital, to respondents No.3 i.e. Chief Medical Director and respondent No.3 who after examining all the certificates and the respondents of the private doctor, will give his opinion in writing whether the case of the applicant was that of emergent nature or not. In case, the facility of providing plates/rods was not available in the railway hospital, then the case had to be treated as an emergent one. Respondent No.3 will forward his opinion alongwith the representation to the competent authority/GM within a further period of fifteen days from the date of receipt of the representation and in that eventuality, the competent authority/GM will pass necessary orders within a further period of two months from the date of receipt of the opinion/report from respondent No.3.

2. Brief facts of the case are that on 13.6.2008, while performing the duty of 'Dak Delivery', the applicant fell down from the cycle nearby office and got fractures in leg as well as hand in addition to the other injuries sustained and got unconscious due to intolerable pain. The office staff immediately admitted him in the railway hospital at about 16.00 hrs. and the applicant remained there for more than two hours, but no proper care and attention was given to the applicant by the staff of the railway hospital. As such, his family members shifted the applicant to a private hospital namely Dwarika Hospital, Sushilpura, Jaipur, for better treatment, where he remained as an indoor patient and got operated.

3. In pursuance of the directions by this Tribunal in OA.01/2009 the applicant submitted a representation to

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the respondents who have rejected the same. The applicant has sought the following relief(s);-

i) that the entire record relating to the case be called for and after perusing the same respondents may be directed to release payment of Rs. 27,492/- indoor+ 5000/- outdoor treatment towards medical reimbursement alongwith interest at market rate from the due date of payment till payment by quashing letter dated 3.12.2009 (Annexure A/1) with all consequential benefits.

ii) that the respondents be further directed not to deduct any amount authorised by the hospital, as treatment taken in emergency.

4. The respondents have filed their reply, the respondents have stated that the applicant has failed to make out any case, worth the name, so as to invoke the jurisdiction of this Tribunal. That the matter has been considered by the respondents in the light of the order passed in OA.01/2009 by this Tribunal, the Annex. A/1 is in accordance with the rules which is perfectly legal, valid and in consonance with the service law juris-prudence.

5. The contention of the applicant is not admitted relating to the fact that he was not treated properly in the Railway Hospital for the reasons that he was not given proper treatment which could have been given to a patient, further it is made clear that a patient is not the judge in case of treatment as the Doctor know it better than the applicant/patient that what kind of treatment should be given to him. The applicant was admitted in the Railway Hospital on 13.6.2008 at 16.05 hours and he was in conscious state as per hospital record otherwise he would have been given emergency treatment. As per the record of the indoor treatment of the Railway Hospital dated 13.6.2008 the applicant was given emergency supporting treatment by the Railway Doctors and necessary investigation was carried out for further treatment but the applicant himself left the hospital at about 17.30 on the same day while his further treatment was being planed with visiting orthopedic surgeon. The

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allegations of the applicant to the extent of the fact that central hospital of North Western Railway does not have the facilities to provide plate etc. is wrong and not admitted being false. No doubt in case the facilities if not available with the railway hospital in that case only the patient are referred to SMS hospital or recognized private hospital but in case of applicant all the facilities required for his treatment were available in the railway central hospital Jaipur. It is important to note here that every day private orthopaedic surgeon is visiting to the railway hospital for providing treatment and in case of emergency he is being called for operating immediately the patient and central hospital of North Western railway is fully equipped with the faculties for treatment of such cases.

6. According to the rules and procedure the person who left hospital of his own violation is not entitled for the reimbursement of the claim. According to IRMM 2000 sub section 4 para 648 (ii) treatment was not valid as it was taken without permission of the Doctor. It was not a case of emergency as he was admitted in the railway hospital and undergoing treatment so there was no emergency thus he becomes dis-entitled to reimbursement of claim. Therefore claim of the applicant was rejected rightly. The reimbursement is only possible in an emergency referred case more so when authorized Doctor refers the case treating the case as of emergency nature. Since the case of the applicant was not case of emergency therefore he is not entitle for he reimbursement of medical expenses.

7. Heard the learned counsel for parties and perused the material available on record.

8. Learned counsel for the applicant argued that the applicant went to private hospital under emergency as he was not being provided proper treatment in the Railway Hospital and since he took treatment in private hospital in emergent condition therefore his claim for reimbursement

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should be accepted by the respondents. On the contrary, learned counsel for the respondents argued that the applicant was being given proper treatment at Railway Hospital. That all the facilities which were required for the treatment of the applicant were available in the Railway Central Hospital. As orthopaedic surgeon was also being called by the Railway Hospital to attend to the applicant. The provisions of IRMM (2000 Sub section 4 para 648 (ii) are not applicable in the case of the applicant as the applicant took treatment in a private hospital without permission of the Railway Doctor. It was not a case of emergency. His representation has been duly considered by the competent authority and has been rightly rejected.

9. It is admitted that the applicant met an accident on 18.6.2008 while delivering official 'Dak' and he was admitted to Railway Hospital. He left Railway Hospital and got himself treated in a private hospital without a reference from the Railway Hospital. Once he was admitted in the Railway Hospital it was duty of the Railway Hospital to give him proper treatment which was being done as per the statement of the respondents but the applicant of his own motion without being advised by the Railway Doctor went to a private hospital therefore it cannot be said that the case of the applicant would come under the category of emergency. The competent authority has rejected his case for reimbursement.

10. I do not find any reason to interfere with the order dated 3.12.2009 (Annexure A-1). The OA being devoid of merit is dismissed with no order as to costs.

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Member (A)