

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH

Jaipur, this the 21st day of October, 2010

TRANSFER APPLICATION NO. 47/2009

IN

CWP NO. 10251/2009

CORAM

HON'BLE MR. M.L. CHAUHAN, JUDICIAL MEMBER

Jai Dev Lalwani son of Shri Gulumal Lalwani, aged about 62 years,
resident of 4037, Kali Mai Road, Nasirabad, District Ajmer.

.....Applicant

(By Advocate: Mr. Sunil Samdaria)

VERSUS

1. Bharat Sanchar Nigam Limited through its General Manager,
Opposite Savitri School, Ajmer.
2. Accounts Officer (Establishment) BSNL, Office of General
Manager, Ajmer.

.....Respondents

(By Advocate: Mr. Neeraj Batra)

ORDER (ORAL)

The applicant has filed this Transfer Application thereby praying
for the following reliefs:-

- (i) issue an appropriate writ/order/direction quashing and
setting aside the order dated 25.10.2007, whereby just,
proper and genuine claim of medical claim have been
illegally rejected.
- (ii) issue an appropriate writ/order/direction directing the
respondents to make the payment of medical
reimbursement @ 18% per annum.
- (iii) any other relief which this court deem fit and proper may
also be granted in favour of petitioner.
- (iv) award of costs of this writ petition to the petitioner.

2. Briefly stated, facts of the case are that wife of the applicant,
Smt. Vidya Devi, was suffering from Cancer. She was treated at
Jawahar Lal Nehru Medical Hospital at Ajmer. Further treatment was

taken from SMS Hospital at Jaipur and thereafter at Bhagwan Mahaveer Cancer Hospital at Jaipur. However, she died on 28.12.2003. The applicant submitted medical bill amounting to Rs.68,085/- duly verified by the medical practitioner and claimed for reimbursement. Consequent upon such submission of medical reimbursement bill, a letter dated 01.04.2004 (Annexure A/1) was received from the Accounts Officer wherein it was stated that Bhagwan Mahaveer Cancer Hospital is in the approved list of hospitals. The applicant was further asked if the expenditure incurred upon ^{by} him was in accordance with the approved rate list of CGHS. The applicant vide his letter dated 19.11.2004 (Annexure A/2) replied that the charges incurred were well ^{below} the admissible charges and in case charges appears to be more than the admissible charges, same may be deducted. When nothing was heard from the respondents, a legal notice dated 29.05.2007 (Annexure A/6) was also issued followed by Registered letter dated 29.09.2007 (Annexure A/7). In this notice, the applicant in Para No. 4 has categorically stated that the Department has sanctioned a sum of Rs.64,000/- instead of Rs.68,085/- and as such, the payment of the said amount may be paid to him. However, to the utter surprise of the applicant, his claim for medical reimbursement was rejected vide letter dated 25.10.2007 (Annexure A/8) on different ground viz. a reference letter may be produced in terms of Para 3(ii) of letter dated 03.06.2004 as employee and his depended family members are allowed to take treatment as indoor patient at the place of posting and at the place of residence of his family. Taking indoor treatment from another place shall be permissible only on production certificate from local hospital stating that such facility is not available in place of posting of the employee or the place of residence of family.

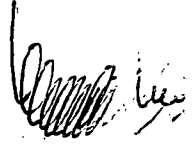
By

3. Notice of this application was given to the respondents. The respondents have filed their reply. The facts, as stated above, have not been disputed. The respondents have stated that since the medical reimbursement bill was submitted without any reference from local hospital, the applicant was asked to produce the reference slip and hence his claim for medical reimbursement bill was rejected.
4. I have heard the learned counsel for the applicant and have gone through the material placed on record. From the facts, as stated above, it is not in dispute that the wife of the applicant was suffering from Cancer and she had taken treatment from different hospitals and lastly from Bhagwan Mahaveer Cancer Hospital at Jaipur, which is admittedly in the list of approved hospitals for such treatment. However, the claim of the applicant was processed by the Department and the only objection which was raised by the respondents before sanctioning the claim of the applicant ^{was} as to ~~that~~ whether the amount as claimed is at par ^{with} the expenditure incurred by the applicant in case the treatment was taken under CGHS Scheme (Annexure A/1). It is also not disputed that vide Annexure A/2, the applicant submitted that claim may be restricted to admissible charges in case such treatment would have been taken under CGHS Scheme and the payment of remaining due may be made to him. Not only that, the applicant vide letter dated 29.05.2004 (Annexure A/3) also submitted the requisite certificate from the authorized hospital. Instead of making payment of medical reimbursement bill despite reminders and legal notice issued to the respondents, the respondents vide impugned order dated 25.10.2007 (Annexure A/8) rejected the claim of the applicant entirely

on different ground that the applicant failed to submit reference slip in terms of provisions contained in Para Nos. 3(1) and 3(2) of letter No. BSNL/ADMN.1/1(1) dated 03.06.2004. It may be stated that wife of the applicant died prior to issuance of the letter dated 03.06.2004; as such the stipulation contained in Para nos. 3 (1) and 3(2) of the said letter could not have been made applicable in the case of the applicant. Thus I am of the firm view that the claim of the applicant was rejected by the respondents entirely on different grounds, relying on the letter dated 03.06.2004 which was not applicable especially when the wife of the applicant was suffering from chronic disease and she ultimately died prior to the said date. The applicant took treatment of his wife in Bhagwan Mahaveer Cancer Hospital, which has been approved for that purpose by the respondents. Thus I am of the view that the applicant has made out a case for the grant of relief. Accordingly, the respondents are directed to sanction the medical claim of the applicant and make the payment as if the applicant had taken treatment of his wife under the CGHS Scheme or restricting the same to Rs.64,000/-, as alleged by the applicant in Para No. 4 of his legal notice dated 29.05.2007 (Annexure A/6) whereby the applicant has also agreed for reimbursement of Rs.64,000/-, which had been sanctioned by the Department. Such an exercise shall be done within a period of ^{three} ~~the~~ months from today. In case admissible payment is not made within a period of three months from today, the applicant shall be entitled for interest @ 10% per annum on the admissible claim from the date of expiry of three months from today. The order dated 25.10.2007 (Annexure A/8) is hereby quashed and set aside.

sh

5. With these observations, the OA is disposed of with no order as to costs.



(M.L. CHAUHAN)
MEMBER (J)

AHQ