

**CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR**

ORDER SHEET

ORDERS OF THE TRIBUNAL

05.01.2012

MA 217/2011 (OA No. 23/2010) with MA 218/2011

Mr. Punit Singhvi, Proxy counsel for
Mr. Sanchit Tamra, Counsel for applicant.
Mr. V.S. Gurjar, Counsel for respondents.

MA 218/2011

The applicant has filed this MA for condoning the delay in filing the MA for restoration of the OA.

The delay is condoned. The MA is disposed of accordingly.

MA No.217/2011

The applicant has filed this MA for restoration of the OA, which was dismissed in default on 26.05.2011. I am satisfied with the reasons stated in the MA. The OA is restored to its original number.

The MA stands disposed of accordingly.

OA 23/2010

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

Anil Kumar

Anil Kumar)
Member (A)

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**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR.**

Jaipur, the 05th day of January, 2012

ORIGINAL APPLICATION No. 23/2010

CORAM :

HON'BLE MR. ANIL KUMAR, ADMINISTRATIVE MEMBER

Shri Sripal Jain son of Late Shri R.S. Jain, aged around 79 years, resident of 4/B Kabir Marg, Bani Park, Jaipur (Rajasthan).

... Applicant

(By Advocate : Mr. Punit Singhvi proxy to Mr. Sanchit Tamra)

Versus

1. Union of India through General Manager, North Western Zone, North Western Railway, Jaipur.
2. Chief Medical Director, North Western Railway, Office of General Manager, North Western Zone, North Western Railway, Jaipur.
3. Chief Medical Superintendent, Railway Hospital, North Western Railway, Jaipur.

... Respondents

(By Advocate: Mr. V.S. Gurjar)

ORDER (ORAL)

The applicant has filed this OA thereby praying for the following relief:-

"It is, therefore, prayed that this Hon'ble Tribunal may be pleased to allow this Original Application and further be pleased to quash and set aside the impugned communication dated 14.09.2009 (Annexure A/1) and directions to be following nature may kindly be issued to the respondents:-

- (i) By issuing a direction, respondents may be directed to reimburse rest of the amount of Rs.45,485.15 out of total amount of Rs.1,29,585.02 which the applicant has incurred on his treatment in a private hospital.
- (ii) By issuing a direction, respondents may be directed to reimburse the amount which the applicant is

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likely to pay for his treatment in private hospital which may be linked with this disease.

2. Heard learned counsel for the parties and perused the documents on record. Learned counsel for the applicant argued that applicant is suffering from Septicemia and other disease of Urology and is under continuous medical treatment. That the applicant on 14.09.1999 was referred by the Railway Hospital to SMS Hospital, Jaipur but he was not admitted by the SMS Hospital on account of strike of the Doctors. Thereafter, he went to Santokba Durlabhji Hospital. There also, he was not admitted because there was rush of patients from the SMS Hospital. Therefore, under emergency he went to Fortis Escort Hospital for treatment and after treatment he submitted his bills for Rs.1,29,585/- under the prescribed form (Annexure A/6) on 29.07.2009. But despite his repeated request, the respondents have not reimbursed him the amount to which he is entitled. Learned counsel for the applicant argued that since the Railway Hospital had referred him to SMS hospital and because of the strike of the resident doctors, he was not admitted there and only in emergency he went to Fortis Escort Hospital. Therefore, the entire amount should be reimbursed to him whereas the respondent department had reimbursed only Rs.69,818/-. Hence, the respondents be directed to reimburse the balance amount to the applicant.

3. Learned counsel for the applicant further argued that the applicant is entitled for the entire amount which he has spent

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on his treatment and this context, he referred to the judgment of the Hon'ble Supreme Court in the case of **Suman Rakhija vs. State of Haryana**, 2004 (13) SCC 652 in which it was held that in an emergency case, patient is entitled to 100% medical expenses at the rates of AIMS and 75% of the expenditure in excess thereto.

3. On the contrary, learned counsel for the respondents argued that the applicant was not entitled for reimbursement because he got treatment in a private hospital instead of the Government hospital where he was referred by the Railway Hospital. The applicant has not produced any document for refusal of treatment by the SMS Hospital on 31.07.2007. Even then his case was sympathetically considered and accordingly he was paid the admissible amount of Rs.69,818/- as per the existing guidelines of the Railways. The applicant claimed Rs.1,15,303.17 for indoor treatment of Fortis Hospital Pvt. Ltd. and Rs.14,281.85 for outdoor treatment thus totaling of Rs.1,29,585.02. The claim for outdoor treatment from 20.08.2007 to 17.09.2007 was not admissible because there was no emergency and he could have been easily treated in the Railway Hospital where facilities & specialists service of Physician, Nephrologists and Urologist are available and such claim is not admissible as per IRMM 2000 sub-Section (4) Para 648 (ii) and as per the guidelines given by the Railway Board letter No. 2005/h/6-4/policy-II dated 31.01.2007 (Annexures R/1 & R/2). The amount claimed for indoor treatment at Fortis

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Hospital as non referred case w.e.f. 31.07.2007 to 10.08.2007 was Rs.1,15,303.17 out of which Rs.45,485.15 was found non admissible for accommodation charges, ICU charges, Investigation charges, consultation charges (higher than CGHS rates) the admissibility of claim was calculated on the basis of CGHS rates of Jaipur as on 28.03.2008 and as per guidelines issued by the Railway Board vide its letter No. 2005/h/6-4/policy-II dated 31.01.2007 (Annexure R/2). The admissible amount of Rs.69,818/- as per existing guidelines of Railways has already been paid. He further argued that the applicant has not reported to the Central Hospital Railway, Jaipur after treatment in Fortis Hospital, which he has taken in emergency from 21.07.2007 to 10.08.2007 as emergency is over. No claim under the rules/regulations after 10.08.2007 is permissible. He has been paid as per the CGHS rates and, therefore, he is not entitled for further reimbursement. The action of the respondents is according to the rules on the subject. Therefore, the OA has no merit and needs to be dismissed.

4. It is not disputed between the parties that the applicant was referred by the Railway Hospital to SMS Hospital, Jaipur. It is also not disputed between the parties that the junior doctors at SMS Hospital were on strike on that day. It is common practice at hospitals that when junior doctors are on strike, they normally discourage the patients to get admitted in the hospital. Therefore, it is quite possible that the applicant was not admitted in SMS Hospital due the strike of the junior

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doctors. The argument of the learned counsel for the respondents that no document has been produced by the applicant that he was not admitted in SMS Hospital is not sustainable. Normally such certificate is not issued by the hospital when doctors are on strike. In emergency, the first priority for the attendants of the patient is to get him treated rather than taking the certificate. Therefore, there is no reason not to believe the version of the applicant that he was not admitted in SMS Hospital. Further that he went to Fortis Hospital in emergency. The respondent department taking a lenient view have already reimbursed Rs.69,818/-, which was admissible as per CGHS Rules, to the applicant. However, in view of the ratio laid down by the Hon'ble Supreme Court in the case of **Suman Rakhija vs. State of Haryana** (supra) that the applicant should also be paid 100% of the CGHS rate applicable in Jaipur and 75% of the expenditure in excess thereto. It is made clear that the applicant is not entitled for reimbursement for outdoor treatment at Escort Fortis because according to the respondents, that treatment is available with the Central Hospital Railways, Jaipur.

5. Consequently, the OA is disposed of with above observations with no order as to costs.

Anil Kumar
(Anil Kumar)
Member (A)

AHQ