

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

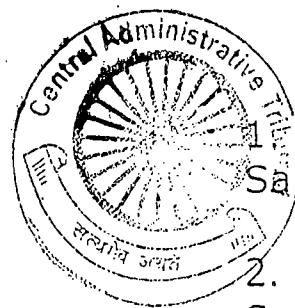
ORIGINAL APPLICATION NO.291/00416/2014

Order reserved on : 18.3.2015
Date of Order: 3.3.2015**CORAM****HON'BLE MR.ANIL KUMAR, ADMINISTRATIVE MEMBER**

Ramji Lal Sharma S/o Shri Kalyan Mal Sharma, aged about 64 years, R/o Village Lamba Para, Lalsot, District Dausa (Rajasthan).

.....Applicant

(By Advocate Mr. C.P. Sharma)

VERSUS

1. Union of India through Secretary, Department of Post, Sahsad Marg, New Delhi.
2. Principal Chief Post Master General, Rajasthan Circle, Sardar Patel Marg, Jaipur.
3. Supdt. Of Post Offices, Jaipur Mofussil Division, Shastri Nagar, Jaipur.

.....Respondents

(By Advocate Mr. Mukesh Agarwal)

ORDER

The applicant has filed the present OA praying for the following reliefs:-

8. (i) By an appropriate order or direction, the Hon'ble Tribunal may kindly call for the entire record pertaining to issuance of impugned order dated 11.7.2014 and after examining the same be pleased to set aside the impugned

An-0.5

True and
Correct Copy of Original

MUKESH AGARWAL

order dated 11.7.2014 in light of the judgments dated 4.12.2012 and 11.9.2013 passed by the learned Tribunal and Hon'ble High Court respectively.

(ii) By further appropriate order or direction the respondents be directed to reimburse the medical claim to the tune of Rs.2,58,156.75 along with interest @ 12% p.a. till the payment is made to the applicant.

(iii) Any other order or direction which may be considered just and proper in the facts and circumstances of the case be passed in favour of the applicant.

(iv) Cost of the O.A. may kindly be awarded to the applicant.

2. The brief facts of the case as stated by the learned counsel for the applicant are that the applicant stood voluntary retired on 1.8.2005 from the post of Sub-Post Master. The applicant is a pensioner.

3. That earlier the applicant was operated for his right eye on 1.10.2011 due to the disease of Cataract (Motiabind) but the reimbursement of the medical bills were rejected vide letter dated 1.5.2012 on the ground that the treatment was taken after superannuation, therefore, the medical bills after superannuation cannot be reimbursed.

4. That applicant challenged the letter dated 1.5.2012 before the learned Central Administrative Tribunal by filling O.A.No.517/2012 and aforesaid OA was allowed by the learned Tribunal vide judgment dated 4.12.2012 (Ann. A/3) holding that applicant is entitled for reimbursement of his medical bills despite his superannuation, therefore, the

Anil Kumar

This Affidavit is True and
Genuine. I am the Original
Signer.

R. K. DAWAL

learned Tribunal directed to the respondent department to reimburse the medical amount of the applicant within a period of three months.

5. That against the aforesaid judgment dated 4.12.2012, the respondent department also filed a writ petition No.6476/2013. In the aforesaid writ petition vide order dated 8.7.2013(Ann. A/4), the Hon'ble High Court rejected the stay application of the department and directed the Postal Department to make the payment to the applicant forthwith.

6. That in pursuance of the order dated 8.7.2013 passed by the Hon'ble High Court, the respondent department made the entire payment of the medical bills vide order dated 24.7.2013.

7. The Ld. Counsel for the applicant further submitted that the writ petition filed by the respondents has been decided by the Hon'ble High Court of Rajasthan, Jaipur Bench vide order dated 11.9.2013 (Ann.A/7) with the following directions:-

"4. As agreed by the learned counsel for the parties, the writ petition is disposed of with a direction that whatever order is passed by Hon'ble Apex Court in the review petition, filed by the Union of India & Another, to review the order dismissing their SLP(Civil) No.10659/2005, the same will be binding on both the parties."

18. The respondents have not disputed that the SLPs filed by the Union of India in this regard have been dismissed by the Hon'ble Supreme Court and that the review petition has also been dismissed by the Hon'ble Apex Court vide order dated 30.10.2013 (Ann.A/8).

19. The learned counsel for the respondents submitted that the case of the applicant's wife is with regard to total knee replacement (both legs) which does not come under the emergency and life threatening. The applicant has not taken any prior permission from the competent authority, therefore, the applicant is not entitled for reimbursement of medical claim of his wife. Thus the OA has no merit and it should be dismissed.

20. Heard the learned counsel for parties, perused the documents on record and the case law as referred to by the learned counsel for the applicant. It is not disputed between the parties that a similar controversy was decided by this Bench in OA No.517/2012 vide order dated 4.12.2012. The respondents filed a writ petition against this order before the Hon'ble High Court of Rajasthan. The Hon'ble High Court, Rajasthan vide order dated 8.7.2013 rejected the stay application filed by the respondents. Further, the Hon'ble High Court of Rajasthan vide order dated 11.9.2013 finally decided the writ petition with the directions that whatever order is passed by the Hon'ble Apex Court in the review

learned Tribunal directed to the respondent department to reimburse the medical amount of the applicant within a period of three months.

5. That against the aforesaid judgment dated 4.12.2012, the respondent department also filed a writ petition No.6476/2013. In the aforesaid writ petition vide order dated 8.7.2013(Ann. A/4), the Hon'ble High Court rejected the stay application of the department and directed the Postal Department to make the payment to the applicant forthwith.

6. That in pursuance of the order dated 8.7.2013 passed by the Hon'ble High Court, the respondent department made the entire payment of the medical bills vide order dated 24.7.2013.

7. The Ld. Counsel for the applicant further submitted that the writ petition filed by the respondents has been decided by the Hon'ble High Court of Rajasthan, Jaipur Bench vide order dated 11.9.2013 (Ann.A/7) with the following directions:-

"4. As agreed by the learned counsel for the parties, the writ petition is disposed of with a direction that whatever order is passed by Hon'ble Apex Court in the review petition, filed by the Union of India & Another, to review the order dismissing their SLP(Civil) No.10659/2005, the same will be binding on both the parties."

This Annexure is true and
Corrected copy (Original)

MUKESH AULAWAL
Advocate

8. The learned counsel for the applicant further submitted that the Review Petition filed by the Union of India has also been dismissed vide judgment dated 30.10.2013 (Ann.A/8).

9. That recently, applicant's wife Smt. Vidhya Devi Sharma also took a treatment in Fortis Escorts Hospital, J.L.N. Marg, Malviya Nagar, Jaipur, which is a recognized Hospital under the CGHS scheme and that is evident by the list of empanelled hospitals under Central Govt. Health Scheme as on 1st June, 2013 (Ann.A/9). The applicant's wife was operated for total knee replacement (both legs) in the Fortis Escorts Hospital, Jaipur. She was admitted in the aforesaid hospital on 14.6.2013 and discharged on 20.6.2013.

10. That in pursuance of the aforesaid treatment, applicant has sent all the medical bills amounting to Rs. 2,58,156.75 vide letter dated 16.9.2013, but the department did not paid any heed.

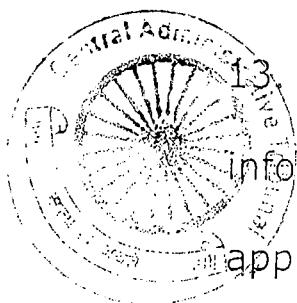
11. That the respondents have informed that claim of retired official/dependent is not admissible for reimbursement of medical expenses as per CS(MA) Rules, 1944. Hence the claim submitted by the applicant cannot be sanctioned (Ann.A/12).

12. That being aggrieved by the aforesaid order dated 16.12.2013 applicant filed an OA No.291/00244/2014 before

This Appellate Tribunal
Copy

7-0-100-2-

to this Hon'ble Tribunal which was decided vide judgment dated 24.4.2014 with observations that in view of the position explained in the letter dated 16.12.2013, the Respondent No.2 is directed to examine the issue and decide the admissibility or otherwise of claim of medical reimbursement for treatment of wife of applicant. While considering the claim of the applicant the Respondent No.2 shall also consider the orders passed by this Hon'ble Tribunal on 6.11.2012 in OA No.631/2011 in case of Sarishti Pal Bhalla Vs. UOI & Ors. and in OA No.517/2012 decided on 4.12.2012 in case of Ramji Lal Sharma Vs. UOI & Ors.



13. That vide order dated 11.7.2014 the respondent No.2 informed to the applicant that the representation of the applicant in pursuance to the order of CAT, Jaipur Bench, Jaipur dated 24.4.2014 in OA No.291/00244/2014 is rejected on the ground that though, after dismissal of Review Petition (C) No.1258/2013 SLP (C) No.10659/2005 filed by Union of India & Anr. Vs. Prabhakar Sridhar Bapat on 30.10.2013 the similar cases were referred to Directorate vide letter No.21-30/2012-Medical dated 24.12.2013 stated that in view of judgment, the Department has no option but to sanction the claim of the applicant/petitioner but, it has been decided that the court cases on this issue should be defended properly hence, the claim of the applicant for reimbursement of medical bills for treatment of his wife is

THE APPLICANT IS THE AND
REPRESENTATIVE OF HIS WIFE IS
MUKESH KUMAR KAVAL
Advocate

deserves to be rejected. Therefore, he prayed that in view of settled position of law the applicant is legally entitled to get the reimbursement of medical bills after his retirement.

14. On the other hand, the respondents have filed their reply. In their reply the respondents have stated that applicant submitted the medical claim amounting to Rs.258156.75 for reimbursement to respondent department. That the applicant was informed that claim of retired Government servant is not admissible for reimbursement as per CS(MA)Rules, 1944, hence the claim of the applicant cannot be entertained.

15. That in compliance to the order of the Tribunal dated 24.4.2014 in OA No.291/00244/2014 the respondents examined the claim submitted by the applicant afresh and rejected the medical claim of the applicant by a reasoned and speaking order dated 11.7.2014 (Ann.A/1). However, the respondents have admitted that in some cases claims of the retired employees for medical reimbursement had to be allowed because of judicial pronouncements. Though these claims were not supported by the instant provisions under the rules but had to be allowed on account of judicial pronouncement. This matter was taken with the nodal Ministry i.e. Ministry of Health and Family Welfare for their guidance. The Ministry of Health and Family Welfare have advised that the matter is still under examination. It has

This Annexure is original
Correct Copy

been decided that court cases on this issue should be defended properly.

16. That the Secretary, Department of Posts vide letter dated 23.12.2014 has further taken up the matter with the Secretary, Ministry of Health and Family Welfare stating that at present the postal pensioners are facing discrimination in provisions of CGHS facilities. It has been requested that the postal pensioners need to be brought under the ambit of CGHS without further delay to help mitigate the problems of the pensioners with regard to health care issues and expenses which would only aggravate with age and growing longevity of pensioners. However, the claim of the applicant for reimbursement of medical claim for treatment of wife is against the existing provisions of rules, therefore, the OA has no merit and it should be dismissed. That the applicant after his voluntary retirement is getting Rs.300/- per month as medical assistance allowance along with his pension. Therefore, he is not entitled to avail double benefit of getting medical allowance and medical reimbursement of medical bills simultaneously.

17. The respondents in their reply have admitted that they have paid the medical claim of the applicant for reimbursement amounting to Rs.12295/- vide order dated 24.7.2013 subject to outcome of civil writ petition No. 6476/2013.

This Affidavit is True and
Correct Copy of Original

AIKESH AGRAWAL
Advocate

18. The respondents have not disputed that the SLPs filed by the Union of India in this regard have been dismissed by the Hon'ble Supreme Court and that the review petition has also been dismissed by the Hon'ble Apex Court vide order dated 30.10.2013 (Ann.A/8).

19. The learned counsel for the respondents submitted that the case of the applicant's wife is with regard to total knee replacement (both legs) which does not come under the emergency and life threatening. The applicant has not taken any prior permission from the competent authority, therefore, the applicant is not entitled for reimbursement of medical claim of his wife. Thus the OA has no merit and it should be dismissed.

20. Heard the learned counsel for parties, perused the documents on record and the case law as referred to by the learned counsel for the applicant. It is not disputed between the parties that a similar controversy was decided by this Bench in OA No.517/2012 vide order dated 4.12.2012. The respondents filed a writ petition against this order before the Hon'ble High Court of Rajasthan. The Hon'ble High Court, Rajasthan vide order dated 8.7.2013 rejected the stay application filed by the respondents. Further, the Hon'ble High Court of Rajasthan vide order dated 11.9.2013 finally decided the writ petition with the directions that whatever

*This Answer is on the basis of the original
Answer of the Respondent
Advocate*

petition filed by the Union of India and another to review the order dismissing their SLP(Civil) No.10659/2005 will be binding of both the parties. The respondents in Para 4.11 of their reply have admitted that the review petition has been dismissed by the Hon'ble Apex Court vide order dated 30.10.2013. (Ann.A/8), thus the order passed by this Tribunal in OA No.517/2012 (Ann.A/3) has attend the finality.

21. The Ld. Counsel for the applicant submits that the Fortis-Escorts Hospital, Jaipur is an empanelled Hospital under the CGHS (Ann.A/9). The respondents would verify this fact that as on the date of operation of the applicant's wife for knee replacement whether the Fortis-Escorts Hospital, Jaipur was a recognized Hospital under the CGHS Scheme and after they come to the conclusion that it was a recognized hospital by the CGHS for knee replacement surgery then the respondents would consider the case of wife of the applicant for reimbursement of his medical claim for the surgery of his wife for knee replacement (both legs). Needless to say that the applicant himself have been reimbursed for his medical claim by the respondents earlier subject to the outcome of the writ petition. In the writ Petition the Hon'ble High Court had stated that the decision of the review petition filed by the Union of India before the Apex Court shall be binding on both the parties. It is

admitted by the respondents that the review petition has been dismissed by the Apex Court thus the reimbursement given to the applicant has become final. Following the same principle the case of the wife of the applicant for medical reimbursement would be examined by the respondents and they are directed to pass a reasoned and speaking order within a period of 3 months from the date of receipt of copy of this order.

22. With these directions the OA is disposed of with no order as to costs.

AK
(ANIL KUMAR)

ADMINISTRATIVE MEMBER

Adm/

Certified That This is a True and
Accurate Copy of The Document/Order
As In The Case File No. OA-616/11/14
And That All The Parties appearing
Therein Have Been Properly
Fully Copied with Due Attention.
Copy of
Copy of Clerk Section Officer (Judicial)
C.A.T. Jaipur Benar

This Answer is to the above and
Corresponds therewith.

ANAL
ANAL
Advocate