

CENTRAL ADMINISTRATIVE TRIBUNAL

JAIPUR BENCH, JAIPUR

ORDERS OF THE BENCH

Date of Order: 3.11.2014

OA No. 479/2013

Mr. C.B.Sharma, Counsel for the applicant.

Mr. Mukesh Agarwal, Counsel for the respondents No.1 & 2.

Mr. Neeraj Batra, Counsel for the respondents No. 3 to 5.

Heard the learned counsel for parties.

Order Reserved.

Anil Kumar

(ANIL KUMAR)

ADMINISTRATIVE MEMBER

Adm/

12/11/14

order

Pronounced
today

in the

open court

by the

aforesaid

Bench.

[Signature]

12/11/14

C.O.

CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH, JAIPUR

ORIGINAL APPLICATION NO. 479/2013

ORDER RESERVED ON: 03.11.2014

DATE OF ORDER: 12.11.2014

CORAM

HON'BLE MR. ANIL KUMAR, ADMINISTRATIVE MEMBER

H.P. Meena S/o Shri Ram Swroop Meena, aged about 40 years, R/o 246, Brijpuri, Jagatpura, Jaipur and presently working as Director, Office of Senior Deputy Director General, Telecom Engineering Centre, New Delhi.

...Applicant

Mr. C.B. Sharma, counsel for applicant.

VERSUS

1. Union of India through its Secretary to the Government of India, Department of Telecommunication, Ministry of Communication and Information Technology, Sanchar Bhawan, New Delhi - 110001.
2. Senior Deputy Director General, Telecom Engineering Centre, Khurshid Lal Bhawan, Jan Path, New Delhi.
3. Chief General Manager (BSNL), Rajasthan Telecom Circle, Jaipur - 302007.
4. General Manager, Telecom District, Ajmer.
5. Telecom District Manager, Jhalawar

...Respondents

Mr. Mukesh Agarwal, counsel for respondent nos. 1 & 2.

Mr. Neeraj Batra, counsel for respondent nos. 3 to 5.

ORDER

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

- "8(i). That the respondents may be directed to entertain the medical claim of mother of the

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applicant and to release payment of Rs. 2,10,720/- towards medical reimbursement along with interest @ 12% p.a. from April 2008 to till payment by quashing order dated 09/05/2013 (Annexure-A/1).

- (ii) That respondents be further directed not to recover any other amount from the applicant as whole amount has been recovered from pay & allowances allowed towards medical advance.
- (iii) Any other order, direction or relief may be passed in favour of the applicant which may be deemed fit, just and proper under the facts and circumstances of the case.
- (iv) That the costs of this application may be awarded."

2. The brief facts of the case, as stated by the applicant, are that the mother of the applicant was operated for heart surgery in Tongia Heart & General Hospital, Jaipur on 13.03.2008. The applicant preferred medical claim of heart treatment for Rs. 2,10,720/-. The respondents have rejected the claim of the applicant and started recovery of Rs. 15,000/- per month from the pay and allowances of the applicant since June, 2011 on account of the medical advance taken by the applicant of Rs. 2,08,000/-. According to the applicant, Tongia Heart & General Hospital, Jaipur is recognized hospital by the Government of India. Being aggrieved by the decision of the respondents of rejecting the claim of the applicant for medical reimbursement for the treatment of his mother vide order

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dated 09.05.2013 (Annex. A/1), present Original Application has been filed by the applicant.

3. The respondents have filed their reply. In the reply, they have stated that after formation of BSNL, guidelines and instruction for implementation of BSNL Employee Medical Reimbursement Scheme (BSNL MRS) was approved by BSNL Board vide letter No. BSNL/Admn/1 dated 28.02.2003 (Annexure R/1) and instruction for operation of the scheme was issued by BSNL HQ, New Delhi vide letter No. BSNL/Admn/1 dated 22.04.2003 (Annexure R/2).

4. As per eligibility conditions mentioned at para 1.5 of BSNL HQ letter dated 28.02.2003 (Annex. R/1), in order to avail of BSNL MRS Scheme, all serving and retired employees of BSNL including deputationists (like applicant) have to opt for BSNL MRS scheme whereby they will not be allowed the facility under CGHS and the employees opting for this scheme will be eligible for indoor treatment as per this scheme. As per para 2 & 3 of BSNL HQ letter dated 22.04.2003 (Annex. R/2), all serving and retired employees of BSNL will be required to exercise their option for either CGHS or BSNL MRS by filling up the prescribed Option Form and Registration Form as appended with Annexure R/2. Suitable Registration Number and Medical Card will be

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issued to all the beneficiary under BSNL MRS. As per para 3 of BSNL HQ letter dated 28.02.2003 (Annexure R/1), all claims for reimbursement of medical expenses shall be made in prescribed proforma supported by necessary bills, vouchers, certificates and prescriptions etc. and shall be subject to the procedure laid down by the management from time to time. As per para 14 of BSNL HQ letter dated 22.04.2003 (Annex. R/2) an employee should intimate his/her serious illness needing hospitalization to the section dealing with medical policy implementation and a letter of authorization shall be issued to the hospital concerned so that necessary help is extended by the hospital.

5. As per BSNL HQ guidelines for indoor treatment under BSNL MRS Scheme vide letter No. BSNL/Admn.I/15-4 (pt.) dated 15.10.2004 (Annexure R/3), the medical claim should be duly certified by the doctor along with photograph of the person given indoor treatment on the copy of the medical card. In all cases of extreme emergencies and the employees concerned shall have to inform the SSA Head or his controlling officer soon after hospitalization for indoor treatment. Also in order to ensure that the facility is used by the employees and his dependent family members only, a designated officer of BSNL may visit the hospital and verify the authenticity of the beneficiary. There are no

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provisions in BSNL MRS for identification and certification of patient by concerned doctor on any other documents except BSNL MRS Medical Card with family photograph.

6. The applicant hidden the actual facts before the Hon'ble Court about the non-settlement of his aforesaid Medical Claim of his mother for the period from 12.03.2008 to 23.03.2008. In this regard, applicant's representation dated 08.05.2009 (Annex. R/6) may be perused wherein the applicant mentioned in para 3 and 4 that his medical claim of Rs. 2,10,720/- was rejected by GMTD, Ajmer on 17.04.2009 (Annex. R/7). The applicant does not mention the facts of rejection of his medical claim anywhere in this O.A. Further after rejection of applicant's medical claim by GMTD, Ajmer under rules and procedures laid down in the BSNL MRS Policy, the applicant approached to CGMT, Rajasthan for reconsideration of his rejected medical claim on sympathetically grounds as mentioned in para 3 & 4 of Annexure R/6.

7. On getting representation of applicant through the CGMT, H.P. Telecom Circle (Annex. R/6), CGMT Rajasthan called the complete case of the applicant for further examination and consideration under BSNL MRS Policy. The medical claim of the applicant was checked under the

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rules/instructions/procedures under BSNL MRS and not found eligible and authentic for consideration of the reimbursement of rejected medical claim of the applicant for Rs. 2,10,720/-.

8. The claim of the applicant was rejected on the ground that the applicant has not opted BSNL MRS facility, nor filled registration form having family details for getting BSNL MRS Medical Card and not approached for BSNL MRS Medical Card with family photograph. Hence, the applicant is not eligible to get any benefits under BSNL MRS Policy.

9. Further the applicant's mother was not a dependent family member at the time of hospitalization of the applicant's mother. Only the applicant's wife was dependent on applicant during the medical treatment period of applicant's mother as per applicant's service book record. The applicant submitted the Form-3 on 25.07.2008 (Annex. R/9) for inclusion of name of his mother as dependent family member in the service book after the medical treatment period i.e. from 12.03.2008 to 23.03.2008. Therefore, mother of the applicant was not eligible family member for getting any benefits under BSNL MRS Policy. Moreover, even the applicant or his dependent family members are not eligible for getting any benefits under

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BSNL MRS Policy without exercise of option and registration for BSNL MRS facility. Moreover, the applicant did not intimate to respondents after hospitalization of his mother in Tongia Heard and General Hospital, Jaipur on 12.03.2008 for getting permission for indoor treatment and issuance of authorization letter. Therefore, permission letter for indoor medical treatment was not issued by the respondents.

10. The applicant has admitted in his clarification letter dated 'NIL' (Annex. R/10) that BSNL MRS Medical Card was not got issued from the office of TDM, Jhalawar. This is an omission of technical nature on his part and deserves to be waived by the competent authority after due consideration.

11. The respondents have further stated in their reply that even the Discharge Card submitted by the applicant (Annex. R/11) is not in the proper form. In this discharge card, the date of admission, diagnosis, procedure done, history of present illness, clinical examination, course in the hospital and advice on discharge are not mentioned. The copies of computerized format discharge card issued by concerned hospital in other treatment before and after the treatment period are annexed at Annexure R/12 & R/13.

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12. As per para 5 of CGSH OM dated 12.09.2007 (Annex. R/15) charges of stent/implants are reimbursed in addition to the procedure cost only after submission of VAT Invoice of Stent/Implant or Batch No. on Hospital Bill and original sticker containing batch No./Serial No./Lot No./Make etc. But in this case, the applicant has not submitted the VAT Invoice, Hospital has also not quoted the Batch No. in Hospital Bill and sticker containing bar code, Sl. No., Batch No. etc. of Mitra Valve. The claim of the applicant is not restricted as per the CGHS Jaipur-2007 rates. Applicant has not submitted the VAT invoice of Mitra Valve costing Rs. 70720/- and Sticker on which details of the stent/implant are printed. In the sticker submitted by the applicant (Annexure R/16), implant date, surgeon & patient name are blanked. As per rules & instructions (Annexure R/15) cost of Mitra Valve of Rs. 70720/- is not reimbursable in absence of VAT Invoices & Proper Sticker.

13. The applicant has also not submitted the dependency certificate to prove that his mother is dependent on him. At para-11 of applicant's clarification (Annexure R/10) that "his mother was residing with him at Jhalawar" is not true and correct because at para 3 & 4 of applicant's application dated 08.05.2009 (Annexure R/6), applicant mentioned that his mother was residing in village Barnala and family

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photo was not available with him". Thus there are two contradictory statement of applicant which shows that the medical claim of the applicant is not genuine.

14. The applicant was sanctioned an advance of Rs. 2,08,000/- against the medical treatment of his mother in Tongia Heart & General Hospital, Jaipur without following the rules / instruction under BSNL MRS Policy. The applicant got reimbursement of Rs. 55341/- (indoor & outdoor treatment) by using his financial powers during the posting as SSA Head of Jhalawar. The applicant's mother was not dependent family member during the aforesaid medical treatment.

15. The respondents have stated that in view of the above facts, as per rules, instruction and procedures under BSNL MRS Policy, the applicant himself and his family members are not eligible for getting BSNL MRS facility since the applicant had not opted for BSNL MRS policy and not filled registration form for getting BSNL MRS Medical Card for being entitled to medical facility for self and the dependent family members. Hence, the indoor medical treatment claim of applicant's mother at Tongia Heart & General Hospital, Jaipur for Rs. 2,10,720/- was not legally justified for reimbursement and, hence, the claim of the applicant

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has been rightly rejected and the amount of advance sanctioned to the applicant has been rightly recovered.

16. Heard learned counsel for the parties and perused the documents available on record and the case law referred to by the learned counsel for the applicant.

17. Learned counsel for the applicant argued that the applicant is a substantive employee of Department of Telecommunication and on deputation to BSNL. In the year 2007, applicant got check up of his mother in SDM Hospital, Jaipur and the respondents also allowed the medical claim of Rs. 15,278/-. In the month of March, 2008, mother of the applicant faced heart problem. He got her mother checked up at Jhalawar where he was posted. The doctors vide certificate dated 04.03.2008 advised cardio base surgery. To save life of his mother, the applicant got admitted her in Tongia Heart & General Hospital, Jaipur on 12.03.2008 and after operation she was discharged on 23.03.2008. The respondent no. 5 vide letter dated 13.03.2008 directed one Shri B.L. Gehlot officer at Jaipur for inspection regarding treatment of mother of the applicant. He submitted his report on 15.03.2008.

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18. Learned counsel for the applicant further argued that the applicant made request before the respondents for payment of medical bill and thereafter on transfer to Shimla where he also made similar request. Shimla authorities instead of making payment, requested to respondent no. 4 to apprise whether claim has been sanctioned or not vide letter dated 26.03.2009 because Rajasthan authorities shown medical advance of Rs. 2,08,000/- in the last pay certificate. The applicant completed the shortcomings pointed out by the respondents from time to time. Thereafter, Shimla authorities started recovery of Rs. 15,000/- per month from June, 2011. The applicant also cleared his position regarding shortcomings vide letter dated 07.07.2011. The mother of the applicant is dependent on him and, therefore, she is entitled for treatment and the applicant is entitled for reimbursement of her treatment. In fact the authorities working under the respondent no. 3 also requested the respondent no. 3 to waive the shortcomings (Annexure A/18).

19. Learned counsel for the applicant also argued that respondent no. 3 nowhere considered this fact that medical claim of mother of the applicant on earlier occasions was allowed by the respondents. The applicant was sanctioned a medical advance for the treatment of his mother. The

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respondent no. 3 also directed the officer to visit hospital and to certify regarding patient. The applicant also submitted ID proof of his mother. Thus, in the garb of any shortcomings, medical claim cannot be rejected as the respondent no. 3 is vested with the powers to waive such shortcomings, therefore, the respondent no. 3 be directed to waive the shortcomings and to reimburse the medical claim of the treatment of his mother for Rs. 2,10,720/-.

20. In support of his arguments, learned counsel for the applicant referred to the order dated 16th April, 2014 passed by this Bench of the Tribunal in OA No. 586/2013 in the case of Ram Chandra Saini vs. Union of India & Ors. Learned counsel for the applicant argued that the ratio decided by this Bench of the Tribunal in the case of Ram Chandra Saini vs. Union of India & Ors. (supra) is squarely applicable under the facts and circumstances of the present O.A. Therefore, he prayed that the respondents may be directed to consider the case of the applicant for medical reimbursement afresh.

21. Learned counsel for the respondents reiterated the facts during the course of arguments as stated in their written reply.

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22. Having heard the rival submissions of the parties and careful perusal of the documents and the case law as referred to by the learned counsel for the applicant, I am of the opinion that the applicant has failed to make out any case for interference by this Tribunal.

23. The claim of medical reimbursement of the applicant has been duly considered by the respondents. According to the respondents, the applicant has not opted for BSNL Employees Medical Reimbursement Scheme and, therefore, he was not issued Medical Card under the said scheme. Without being a member of the BSNL MRS Scheme and without having a proper medical card, even the applicant is not entitled for any medical reimbursement. This fact has not been denied by the learned counsel for the applicant even during the course of arguments that the applicant is not a member of BSNL MRS Scheme.

24. Learned counsel for the applicant emphasized that on earlier occasion, he was reimbursed for the treatment of his mother in the year 2007, therefore, he should be reimbursed for the treatment of his mother again. In this context, the respondents in their reply have stated that the applicant got reimbursement of Rs. 55341/- (indoor and outdoor treatment) by using his financial powers during the

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posting as SSA Head of Jhalawar. The applicant's mother was not dependent family member during the aforesaid medical treatment. This shows that the medical reimbursement was sanctioned by the applicant himself using his powers as SSA Head of Jhalawar. Thus, this will not give any advantage or claim to the applicant for the reimbursement for the treatment of his mother.

25. The respondents have also pointed out that the necessary formalities for the reimbursement i.e. VAT Invoice, Batch Number in Hospital Bill and Sticker containing bar code, serial number, batch number etc. of Mitra Valve have not been provided by the hospital. Moreover, the discharge certificate is also not in proper format.

26. Learned counsel for the applicant argued that the respondent no. 3 has the power to waive certain shortcomings but in my opinion any power to waive is in the discretion of the competent authority and the Tribunal cannot direct the respondent no. 3 to use his discretionary powers.

27. I have carefully perused the case law referred to by the learned counsel for the applicant and I am of the opinion

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that under the facts and circumstances of the present O.A., the ratio decided by this Bench of this Tribunal in the case of Ram Chandra Saini vs. Union of India & Ors. (supra) is not applicable. In the case of Ram Chandra Saini (supra), the applicant had certified that his parents are totally depending on him and that his parents have no income, therefore, the respondents were directed to reconsider the claim of the applicant's mother but in the present case the applicant is not even a member of BSNL MRS Scheme and he does not hold medical card, therefore, when he himself is not entitled for the medical reimbursement how can the mother of the applicant be entitled for the reimbursement of the medical claim.

28. Thus, on the basis of the above discussion, the applicant has failed to make out any case for interference by this Tribunal. The Original Application has no merit and, accordingly, it is dismissed with no order as to costs.

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(ANIL KUMAR)
ADMINISTRATIVE MEMBER