

CENTRAL ADMINISTRATIVE TRIBUNAL

CHANDIGARH BENCH

OA No. 060/00797/2014

Date of decision: 10.3.2015

**CORAM: HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J)
HON'BLE MRS. RAJWANT SANDHU, MEMBER (A)**

Chuni Lal Dua son of late Sh. Bhagwan Dass, aged 72 years, Ex-HSG-II, SA HRO Ambala, presently resident of H.No. 2944/2, Arya Mohalla, Ambala City.

...APPLICANTS

BY ADVOCATE: Sh. Jagdeep Jaswal.

VERSUS

1. Union of India through Secretary, Ministry of Communications, department of Posts, Dak Bhawan, New Delhi.
2. Chief Post Master General, Haryana postal circle, Ambala-133001.
3. Superintendent, Railway Mail Service, 'HR' Division, Ambala-133001.

...RESPONDENTS

BY ADVOCATE: Sh. B.B. Sharma

9

ORDER

HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J):-

The present Original Application is directed against an order dated 19/23.06.2014 (Annexure A-1) and order dated 22.08.2014 (Annexure A-2) where the claim of the applicant for reimbursement of medical expenses has been rejected. The applicant has further sought issuance of a direction to the respondents to consider and disburse the full amount of medical reimbursement to him.

2. This is a glaring example of red tapism and obduracy wherein despite an order passed by this Tribunal in favour of applicant rejecting the action of the respondents in not disbursing the amount spent by the applicant on his medical treatment in earlier round of litigation, again when he submitted his bill for reimbursement, the same has been rejected by the respondents by taking the very objections which had already been turned down by this Tribunal.

3. The facts, which led to filing of the present Original Application, are that the applicant, who retired on attaining the age of superannuation on 31.07.2001 as Sorting Supervisor HSG-II suddenly suffered a heart-attack and consulted the nearby Doctor where he was referred to the Max Super Specialty hospital, Mohali on 22.05.2013 from

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where he was referred to PGIMER, Chandigarh and remained as an indoor patient from 17.07.2013 to 22.07.2013. He was operated upon on 28.07.2013 and remained as an indoor patient till 30.07.2013. In this process an amount of Rs.2,05,399.85 was incurred upon his treatment in both the hospitals, i.e., Max Super Specialty, Mohali and PGIMER, Chandigarh. When the respondents did not reimburse the above amount incurred by the applicant while taking treatment from the above said hospitals he was compelled to approach this Tribunal by filing OA no.1559-HR-2013, which was disposed of vide order dated 30.01.2014. In furtherance of the orders passed by this Tribunal, as reported by the applicant, the permissible amount has been reimbursed. Subsequent to that unfortunately he again suffered heart-attack on 03.04.2014 and was taken to nearby Sant Hospital and thereafter he was brought to PGIMER, Chandigarh and remained there as an indoor patient from 03.04.2014 to 05.04.2014 and after his discharge he again suffered heart-attack and on the same day he was admitted to Max Super Specialty Hospital, Mohali, which is one of the recognized hospitals where he took treatment up to 12.04.2014. In this way he incurred an amount of Rs.1,92,097/-. For reimbursement of the above amount the applicant submitted a representation to the respondents on 17.06.2014, which was rejected by the impugned order dated 19/23.06.2014 on the ground that his case is not covered under CS (MA) Rules, 1944 (for short, 1944 Rules). Then he approached respondent no.2 for redressal of his grievance on 01.07.2014

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but the same was also rejected vide impugned order dated 22.08.2014. Hence the Original Application. In furtherance to the above plea, Shri Jagdeep Jaswal, learned counsel appearing for the applicant vehemently argued that once this Tribunal had already given a decision in favour of applicant, directing the respondents to reimburse the amount incurred by him in getting the medical expenses reimbursed, then the respondents cannot reject his claim subsequently by taking the same objection which had already been turned down by this Tribunal. He also submitted that the order of this Tribunal in earlier round of litigation had already been obeyed by the respondents by disbursing the amount.

4. Pursuant to the notice the respondents contested the claim of the applicant by filing a detailed written statement wherein they took an objection that since the applicant's case is not covered under the 1944 Rules, therefore, his request for reimbursement of the above amount has been rejected by the impugned order. Shri B.B. Sharma, learned counsel appearing on behalf of the respondents did not dispute this fact that in the case of the applicant itself this Tribunal had already directed the respondents to reimburse the actual expenses incurred by him in its order dated 30.01.2014 based upon the judgments passed by the Hon'ble Supreme Court in the case of **State of Punjab v. Ram Lubhaya Bagga**, AIR 1998 SC 1703.

5. We have given our thoughtful consideration to the entire matter. The issue of reimbursement of medical expenses incurred by an

employee, who is drawing fixed medical allowance, which has now been revised to Rs.300/- for meeting out the medical expenses on his day-to-day needs has already been considered by this Tribunal in the case of applicant by relying upon various orders passed by the Hon'ble Supreme Court. While allowing his earlier application (OA-1959/HR/2013) this Tribunal has recorded the following finding:

"7. Concededly, the applicant was drawing fixed medical allowance of Rs. 100/- per month (now revised to Rs. 300/-) for meeting expenditure on his day to day medical needs. The claim of the applicant was rejected purely on the ground that being a retiree, his is not covered under CS(MA) Rules, 1944, therefore, the medical expenses cannot be reimbursed. This issue has already been settled by this Tribunal in O.A No. 248/PB/2001 titled **R.P.Mehta Vs. Union of India** decided on 25.01.2002. The said order was upheld by the Hon'ble High Court of Punjab and Haryana preferred by UOI. When SLP was filed in the matter the same was to dismissed along with 31 other similarly situated SLPs vide order dated 03.04.2012 by affirming the order of the Coordinate Bench of this Tribunal. Recently, the same issue was also resolved by this Tribunal in the case of Jagdish Chander Anand (supra) and O.A was allowed. Therefore, following the same, we allow the present Original Application in the same term. The impugned orders Annexure A-1 dated 14.10.2013, Annexure A-2 dated 10.09.2013 and Annexure A-3 dated 29.07.2013 shall stand invalidated. The respondents are directed to reimburse the expenditure incurred by the applicant at the rate equal to the rate as admissible in PGI in terms of the package rate as held in case of **State Punjab Vs. Ram Lubhaya Bagga** AIR 1998 SC 1703, the relevant para of which reads as under-

"The right of the State to change its policy from time to time, under the changing circumstances is neither challenged nor could it be. let us now examine this new policy. learned senior counsel for the appellants submits that the new policy is more liberal in as much as it gives freedom of choice to every employee to undertake treatment in any private hospital of his own choice any where in the country. The only clog is that the reimbursement would be to the level of expenditure as per rates which are fixed by the Director,

Health and Family Welfare, Punjab for a similar package treatment or actual expenditure which ever is less. Such rate for a particular treatment will be included in the advice issued by the District/State Medical Board for fixing this. Under the said policy a Committee of Technical Experts is constituted by the Director to finalize the rates of various treatment packages and such rate list shall be made available to the offices of the Civil surgeons of the State. Under this new policy, it is clear that none has to wait in a queue. One can avail and go to any private hospital anywhere in India. Hence the objection that, even under the new policy in emergency one has to wait in a queue as argued in Surjit Singh case (supra) does not hold good."

6. It is, thus, apparent that the sole plea of respondents that applicant is not covered by CS (MA) Rules, 1944 and as such is not entitled to medical expenses, stands dealt with in the case of R.P. Mehta (supra) and stands declined therein. In the light of the above, we are left with no option but to accept the Original Application and accordingly quash and set aside the impugned orders. The respondents are directed to re-consider the claim of the applicant for medical reimbursement in the light of what we have observed above.

7. No costs.

(Rajwant Sandhu)
Member (A)

(Sanjeev Kaushik)
Member (J)

Place: Chandigarh

Dated: 10.3.2015

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