



**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

...
(Reserved on 07.01.2015)

OA No. 060/00404/2014

Date of decision- 20.1.2015

**CORAM: HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J)
HON'BLE MR. UDAY KUMAR VARMA, MEMBER (A)**

...
Dr. S.N. Sinha, retired as Head, Indian Agricultural Research Institute, Regional Station, Karnal, resident of 1604, Sector 9, Urban Estate, Karnal-132001 (Haryana).

...APPLICANT

BY ADVOCATE : Sh. D.R. Sharma

VERSUS

1. India Council of Agricultural Research, Krishi Bhawan, New Delhi through its Secretary.
2. The Director, Indian Agricultural Research Institute, PUSA, New Delhi-110012.

...RESPONDENTS

BY ADVOCATE: Sh. R.K. Sharma

ORDER

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

Challenge is to the order dated 08.01.2014 vide which respondent no. 2 had declined the claim of the applicant for full

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reimbursement. The applicant has further sought a direction to release the remaining amount which incurred on getting the treatment from Escort Heart Institute and Research Centre, New Delhi with an interest @ 18 % p.a.

2. The undisputed facts which led to the filing of present O.A are that the applicant, herein, suffered with chest pain and had consulted one Dr. Sandeep Chaudhri, a consultant Physician from the panel of Doctors approved by Indian Agricultural Research Institute i.e.

respondent no. 2. It is the case of the applicant that he was approved/recommended either to go to Escort Hospital, Delhi or PGIMER, Chandigarh because TMT test was showing abnormalities.

Accordingly, he preferred to consult another doctor at Civil Hospital, Karnal who advised him on 30.03.2010 to take further treatment from Escort Heart Institute and Research Centre, New Delhi, which is recognized by the Ministry of Health for treatment of the Central Government employees/their dependants. Thereafter, the applicant

was admitted in the Escort Hospital on 31.03.2010 and was operated for Coronary Angioplasty. He was discharged on 02.04.2010. After discharge, the applicant submitted his claim for medical reimbursement amounting to Rs. 3,75,790/- on 28.06.2010.

Respondent no. 2 conveyed a sanction of Rs. 2, 64,805/- vide letter dated 29.11.2010 as per CGHS rates. For not allowing the entire

amount, the applicant submitted representation for disbursement of remaining amount, he incurred while getting the treatment at Escort Hospital which is recognized hospital by the respondents, but has been rejected vide impugned order dated 08.01.2014. Hence, the present Original Application.

3. In support of the above, Sh. D.R. Sharma, learned counsel for the applicant vehemently argued that action of the respondents in not disbursing the full medical amount incurred in getting the treatment is illegal and arbitrary because the central government employees are entitled to get full reimbursement of medical expenses incurred on treatment under CCS (MA) Rule, 1965. To buttress his submissions, he placed reliance upon the judgments passed the Principal Bench of this in case of **Sohanbir Singh Vs. Union of India** (O.A No. 1603/2007 dated 19.12.2007, **Dr. M.A.Haque Vs. Secretary, Ministry of Environment and Forest, Govt. of Punjab** (O.A No. 179/2007) dated 04.12.2007 and in case of **K.P. Singh Vs. Govt. of NCT, Principal Secretary Health & another** (O.A No. 821/2007) dated 28.09.2007 wherein it is held that applicant is entitled to full medical reimbursement. He also placed reliance upon the judgment passed by the Tribunal in case of **R.P. Mehta Vs. U.O.I. & Ors.** (O.A No. 248/PB/2001) and the judgment passed by the Hon'ble Supreme Court



in case of **Suman Rakheja Vs. State of Haryana & Anr.**, 2004(13)

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4. Upon notice, the respondents contested the claim of the applicant by filing a detailed written statement wherein they submitted that in terms of the CCS (Medical Attendance) Rules, 1944 and instructions issued thereupon, the claim of the applicant was considered and was allowed medical reimbursement as per the CGHS beneficiaries at private recognized hospital or actual charges, whichever is less.

5. In support of the above, Sh. R.K. Sharma, learned counsel for the applicant submitted that claim of the applicant was considered and granted the admissible benefit as per the CGHS rates. In this regard, he placed reliance upon the order passed by this Court in case of **Shyam Sunder Vs. U.O.I & Ors.** (O.A No. 1504/HR/2013) decided on 03.11.2014 wherein the bench considered the similar controversy qua the medical reimbursement whichever has been raised by the applicant herein, and this court held that the applicant, therein, is entitled for the medical expenses as per the CGHS rates.

6. We have given our thoughtful consideration to the entire matter and perused the pleadings as available on record, with the able assistance of the counsel for the parties.

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7. The issue involved in this case is no more res-integra as submitted by the learned counsel for the respondents. This Tribunal considered the identical issue in case of Shayam Sunder (supra) and has negated the similar plea as raised herein by the applicant. Based upon the judgment passed by the Principal Bench of this Tribunal in O.A. No. 3721/2012-R.K. Bhatia, IAS (Retd.) Vs. Secretary, Ministry of Health etc. decided on 06.05.2013 where the issued was decided after relaying upon the further judgments passed by the Hon'ble Supreme Court and thereafter, the jurisdictional High Court in case of Shakuntla. While deciding the issue, the basic judgment qua release of medical expenses in case of State of Punjab & Others Vs. Ram Lubhaya Bagga, etc. 1998(2) SLR 220 was also considered. Therefore, the present O.A is disposed in same terms as in case of R.K. Bhatia (supra), the relevant para 6 reads as under,

"6. In Ram Lubhaya Bagga's case (supra), a three judge bench of the Hon'ble Apex Court while observing that right to life is not merely a right enshrined under Article 21 of the Constitution of India, but an obligation cast on the State to provide this both under Article 21 and Article 47 of the Constitution, held that the right can be put within reasonable limits under the policy which is framed after taking into consideration various factors, and upheld the policy restricting reimbursement of medical expenses as per the rates fixed by the Government. However, on the peculiar facts and circumstances of that case, allowed Escorts rates (i.e., as charged by a non-empanelled private hospital) by observing that it would not be treated as precedent.

7. In Mahesh Kumar Sharma's case (supra), a two judge bench of the Hon'ble Apex Court, while interpreting the Rajasthan Civil Service (Medical Attendance) Rules, 1970 and following the Judgment in Ram Lubhaya Bagga (supra), upheld the decision of the appellant therein in restricting the reimbursement up to a certain limit, but by noticing that the applicant therein have already reimbursed full medical expenses to the respondent therein and to various others, directed not to effect any recoveries, in the facts of the said case.

8. In Suman Rakheja's case (supra), a two judge bench of the Hon'ble Apex Court observing that the appellant therein undergone the treatment in a non-recognized/approved private hospital in an emergency, directed the respondents therein to reimburse 100% medical expenses at the AIIMS rates and 75% of expenditure in excess thereto.

9. In Smt. Gauri Sen Gupta's case (supra), the Hon'ble Gauhati High Court, after considering the case of Ram Lubhaya Bagga (supra), directed the respondents to reimburse the entire medical claim of the petitioner therein, in the facts of the said case.

10. In Shakuntla's case (supra), the Hon'ble High Court of Punjab and Haryana held that denial of medical reimbursement only on the ground that treatment was not taken from the approved hospital is bad since emergency knows no law and saving the life of a person should be paramount consideration.

11. It is to be noted that the Ram Lubhaya Bagga's case (supra) is of a three judge bench and the two judge bench in Suman Rakheja's case (supra), without noticing the Bagga's Judgment passed orders for reimbursement of medical expenses in excess of AIIMS rates. Another two judge bench of the Hon'ble Apex Court in a recent case of Mahesh Kumar Sharma followed Bagga's Judgment. In view of the settled legal position, the judgment in Ram Lubhaya Bagga's case (supra) is binding and applicable. Hence, the action of the respondents in reimbursing the medical expenses claim of the applicant, only to the extent



of admissible amount as per the package rates in terms of OM dated 17.08.2010 (Annexure-R1), cannot be interfered with. No other valid reason is also shown to take any different view in the matter."

8. Now dealing with the judgment relied upon by the applicant in case of Suman Rakheja (supra) is concerned rather it supports the respondents because in the operated part of the judgment, their lordship held that appellant is held entitled for 100% medical expenses at the AIIMS rates only. The judgment in case of R.P. Mehta (supra) has subsequently been considered in various judgments and view has been taken for getting the medical treatment from the recognized hospital that reimbursement of medical expenses be allowed only at the rates of CGHS or AIIMS. The above view has been taken in view of the fact that the state cannot be forced to reimburse the entire amount by the employee on getting the medical treatment from private hospital despite there being the government hospital where the same treatment is available. A view for taking the treatment from private hospital and reimbursement of amount as per the CGHS rates are made applicable for simple reason that huge number of persons seeking treatment but not from the adequate hospital, therefore, the policy has been framed for reimbursement of medical expenses at CGHS rates. Once the right flows from the policy, then the other conditions also to be taken into account. We see no reason to accept

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the request of the applicant for grant of full medical expenses from the private hospital. There is another reason for denial of the same though the panel doctor recommended the applicant to go either Escort Hospital, Delhi or PGIMER, Chandigarh but it does not mean despite there being an adequate facility at PGIMER, the applicant can only go to the Escort Hospital of his choice. Even, there is no whisper in the O.A that at PGIMER or government hospital, he has been denied the facility for which the applicant is to be admitted. Considering the financial burden on the respondents, they have approved the medical expenses amount incurred upon treatment as per the CGHS rates to the applicant, therefore, there is no fault on the part of the respondents and rightly, rejected his claim for full reimbursement of medical claim. Accordingly, O.A is dismissed.

9. No costs.

Uday Kumar Varma
(UDAY KUMAR VARMA)
MEMBER (A)

Dated: 20.1.2015

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Sanjeev
(SANJEEV KAUSHIK)
MEMBER (J)