

**CENTRAL ADMINISTRATIVE TRIBUNAL  
AHMEDABAD BENCH**

**ORIGINAL APPLICATION NO.41/2017**

**DATED THE 17th SEPTEMBER, 2018.**

**CORAM: HON'BLE MS ARCHANA NIGAM, MEMBER(A)**

**HON'BLE SHRI M C VERMA, MEMBER(J)**

Khanchand Parmnani,

S/o. Tulsidas Pamnani,

Aged about 72 years,

Resident of: B-302, Vijay Plaza,

Kankaria, Ahmedabad – 380 022.

... Applicant

(By Advocate Shri P H Pathak)

V/s

- 1 Union of India  
Notice to be served through the  
The Secretary,  
Ministry of Communications & IT,  
Department of Telecommunication Accounts,  
New Delhi – 110 011.

- 2 The Chairman,  
Bharat Sanchar Nigam Ltd,  
Corporate Office,  
New Delhi – 110 001.
- 3 Principal General Manager,  
Ahmedabad Telecom District,  
Navrangpura, Ahmedabad – 380 006.
- 4 Accounts Officer (Medical),  
Ahmedabad Telecom District,  
Navrangpura,  
Ahmedabad – 380 006.

... Respondents

(By Advocate : Ms Prachi Upadhyay R-1  
Shri M J Patel – R 2 to 5)

(O R D E R)

**Per Hon'ble Shri M C Verma (J)**

The jurisdiction of this Tribunal has been invoked by the applicant Shri Khanchand Pamnani, a senior citizen stated to have been retired on 31.10.2004 as Senior TOA(G), by filing this OA, with MA No.35/2017 for condonation of delay, against the alleged unfair treatment meted out to him pertaining to reimbursement of medical claims. He has challenged decision (Annexure A/1) dated

13.01.2016 of respondent no.3 whereby and whereunder his claim for medical reimbursement has been rejected.

2. The brief facts of case, as has been set out in the OA are that on 27.3.2012 applicant felt acute pain and heavy bleeding occurred due to the disease of Piles, he became unconscious and was taken, by the family members to nearest Ratandeeep Surgical Hospital, Maninagar where he was admitted and was advised to undergo Laser Surgery. That family members of the applicant on 28.03.2012, vide **Annexure A/2**, informed the respondent no.3 that the applicant due to acute fissures pain was admitted in Emergency Ward of Ratandeeep Surgical Hospital and requested to issue **Certificate-E** for the visit of BSNL Officer and **Certificate-F** for authorisation for treatment in said hospital. That Surgery of applicant was done for which an expense of Rs.29,945/- was incurred. That applicant immediately, after recovery, vide representation dated 12.06.2012 (**Annexure A/3**), submitted medical certificates, documents and bills to respondent no.3 for reimbursement but respondent no.3, vide letter dated 20.06.2012 (**Annexure A/4**) returned the medical file to the applicant with objection of non-supply of emergency certificate, clarification regarding treatment taken and certificate from the controlling officer regarding visit of the patient in the hospital. That applicant vide letter dated 16.07.2012 (**Annexure A/5 & A/6**) informing the respondents that on 27.03.2012 his condition was very serious and he had become unconscious sent Emergency Certificate dated 07.07.2012. That as there was no response from the respondents so applicant made repeated representations, dated 11.1.2013, 30.09.2013 and 18.08.2015 (**Annexures A/7, A/8 and A/9**).

**2.1** It is the further case of applicant that on 20.07.2015, during his visit to Kolkata, he again faced medical emergency, had severe abdominal pain and became unconscious. That he was admitted to nearest hospital – Kothari Medical Centre, Kolkata – one of the hospitals recognised by BSNL, was given treatment there from 20.07.2015 to 30.07.2015 and incurred expenditure of Rs.1,31,832/- for the same. That upon recovery he submitted the bills and other documents to respondent no.3, vide letter dated 18.08.2015 (**Annexure A/10 & A/11 Colly**). That respondents, vide letter dated 26.08.2015 (Annexure A/12) demanded certain documents such as authorisation letter for treatment taken in hospital, visit certificates by BSNL Officer and certificate from hospital authority for emergency indoor medical treatment and he, vide his letter dated 5.9.2015 (**Annexure A/13**) informed that on the very day of his hospitalisation at Kolkata Welfare Officer was informed through fax and that no certificate was issued by the Welfare Officer and therefore it is the fault on the part of Welfare Officer for not issuing a certificate and that applicant cannot be held responsible for non-supply of authorisation letter or visit certificate by respondent authorities and that there was no need for emergency certificate as Kothari Medical Centre is recognised under BSNL MRS Rules

**2.2.** Applicant also has pleaded that he personally visited the office but no fruitful reply was given and hence he sent an advocate notice on 26.12.2015 (**Annexure A/15**) to respondent no.2 and in response thereto respondent no.3, vide letter dated 13.01.2016 (**Annexure A/1**) informed that so far as the medical claim of applicant for the period 28.03.2012 to 29.03.2012 is concerned, the medical bills are not traceable and the record is not available and also that Ratandee Surgical Hospital is not a recognized hospital and the case of the applicant was not covered under the definition of

“Emergency” as per BSNL Rules. That relating to medical claim for treatment at Kolkata, from 20.07.2015 to 30.07.2015 visit certificate was not produced and the treatment was taken outside the circle and hence his claim cannot be settled. That in response applicant, vide letter dated 21.04.2016 **(Annexure A/16)** informed the respondent that he has supplied the emergency certificate in first case and that he cannot be held responsible for non-supply of documents by the Welfare Officer in the second case.

3. The respondents contested the claim of applicant and filed detailed reply. Regarding claim of treatment taken at Ratandee Surgical Hospital it has been pleaded by respondents that no sufficient ground to believe to establish that the employee was under state of emergency or was not in a position to reach the BSNL recognised hospital for treatment was there. That pain in fissures due to piles, is not of emergency nature as per the list of BSNL for Medical Reimbursement Claim and In Doctor's certificate also, there was no mention that patient was brought to the hospital with heavy bleeding and in an unconscious condition, in case papers and discharge summary it is not mentioned that applicant was treated in emergency and it does not appears that to be a case of emergency and when emergency does not stand established, question of issue of an Authorisation Certificate does not arise. It has also been pleaded by respondents that BSNL recognised hospital was available nearer than Ratandee Surgical Hospital so admission of applicant in Ratandee Surgical Hospital is also not justified and that claim was submitted without sufficient documentation and proper justification and was liable for rejection/dis-allowed.

3.1 Regarding claim of medical treatment, for period from 20/7/2015 to 30/7/2015 at Kothari Medical Centre, Kolkata it has been pleaded by respondent that applicant had to inform the SSA/Head of his Controlling Officer soon after his hospitalisation but no such information was given by him. Applicant has claimed that he has faxed the letter but no such fax was received in the office and that now on scrutinising the fax report, supplied with the OA it transpires that the telephone number was not correct and applicant by doing over - writing has corrected the telephone number. It has been pleaded by respondents that after receiving the claim in the office of respondents, Accounts Officer (Medical) scrutinised the claim and asked for some documents from the claimant vide letter No. AT / AO (Salary-III)/IDMR8/KTP/2015-16 Dt.26.08.2015 & Dt. 29.12.2015 as said documents were mandatory as per the guidelines of Indoor Treatment BSNL Medical Reimbursement Scheme but same were not supplied.

4. We have heard learned counsel Sh. P.H.Pathak Adv., who appeared for applicant as well learned counsel Sh. M.J.Patel Adv., who appeared for respondents and have perused the record minutely.

5. At the threshold it is pertinent to note that MA No.35/17, application for condonation of delay, is still pending. Instant OA, assailing decision (Annexure A/1) dated 13.01.2016 of respondent no.3 was preferred on 07/02/17. In application for condonation of delay, it has been pleaded that applicant is a retired citizen and with hope that his grievances will be resolved amicably he, after impugned order reiterated and pleaded his case before the respondents for redressal and when it also turned of no avail then only he approached the Tribunal. Respondents has filed reply of the MA pleading that

claim pertains to year 2012 and was agitated in year 2018, no cogent reason for delay has been given and therefore, application deserve dismissal. At the time of final hearing this application for condonation of delay was not agitated vehemently. However, having considered the pros & cons of the matter, the short period of delay and other surrounding circumstance we find that it is not a case of inordinate delay or latches and it would be appropriate to allow this application for condonation of delay application and to advert to OA on its merit. Accordingly, MA No. 35/17 is allowed.

6. Learned counsel for applicant while pressing the OA has submitted that action of the respondents in not allowing the claims, is arbitrary and violative of principles of natural justice and in violation of law as has been laid down by Hon'ble the Supreme Court in ***Shivakant Jha Vs. UOI & Ors.*** decided on 13.4.2018 in WP(C) No. 694 of 2015. He urged that grounds asserted by the respondents to refuse reimbursement are untenable and requested to allow the OA with directions to the respondents to reimburse the medical bills of the applicant.

7. Learned counsel for respondents reverting the submission of applicant contended that rules are clear that under emergency circumstance when there is no Government or BSNL recognised hospital is approachable only then treatment can be taken in private / non recognised hospital but in the case in hand applicant, who is a regular claimant of medical bills and is well versed with BSNL Guidelines and the documents required in support of Indoor claims though the BSNL recognised hospital was available at nearer place took treatment at Ratandeeep Surgical Hospital . He disputed that the applicant was in the state of emergency and was not in a position to visit the BSNL

recognised hospital. He also has urged that time and again, applicant was requested to provide mandatory documents and that his claim was rightly rejected.

8. In instant case issue relates to two medical claims. The respondents tried to justify refusal of claim of treatment taken at Ratandee Surgical Hospital by contending that no sufficient ground to establish that the employee was under state of emergency or was not in a position to reach the BSNL recognised hospital for treatment is there and that pain in fissures due to piles is not of emergency nature. Learned counsel for respondents have argued that rules are clear that under emergency circumstance when there is no Government or BSNL recognised hospital is approachable only then treatment can be taken in private / non-recognised hospital but in case in hand, the BSNL recognised hospital was available at distance of 2 Kms. only from the house of applicant and Ratandee Surgical Hospital is at distance of 3 KMs.

9. It is a settled legal position that the Government employee during his life time or after his retirement is entitled to get the benefit of the medical facilities and no fetters can be placed on his rights. It has been held by Hon'ble the Supreme Court in decision titled Shivakant Jha Vs. UOI & Ors. (cited supra & and relied upon by Ld. Counsel for applicant) that: - ***“ The right to medical claim cannot be denied merely because the name of the hospital is not included in the Government Order. The real test must be the factum of treatment. Before any medical claim is honoured, the authorities are bound to ensure as to whether the claimant had actually taken treatment and the factum of treatment is supported by records duly certified by Doctors/Hospitals concerned. Once, it is established, the claim cannot be denied on technical grounds.”***

10. As the contention about claim of bills of Ratandeeep Surgical Hospital are concerned, it can't be said that it was not a case of emergency nature. Applicant, as stated felt acute pain and heavy bleeding due to the disease of Piles and became unconscious and was taken, by the family members to nearest Ratandeeep Surgical Hospital. It is acceptable to common sense, in such situation that ultimate decision as to in which hospital he has to be taken for the treatment vests only with relative to decide and it was for the Doctor, who is well versed and expert both on academic qualification and experience gained to decide as to the manner in which the ailment should be treated and therefore, no scope is left to the patient. Speciality Hospitals are established for treatment of specified ailments and services of Doctors specialized in a discipline are availed by patients only to ensure proper, required and safe treatment. Can it be said that taking treatment in Speciality Hospital by itself would deprive a person to claim reimbursement solely on the ground that the said Hospital is not included in the Government Order.

11. Further it is categorical pleading of applicant that his family members, on 28.03.2012, vide Annexure A/2, informed the respondent no.3 that the applicant due to acute fissures pain was admitted in Emergency Ward of Ratandeeep Surgical Hospital and requested to issue Certificate-E for the visit of BSNL Officer and Certificate-F for authorisation for treatment in said hospital. If anything has appeared doubtful to the respondents they could check the matter with the hospital but, that was not done. Merely on the ground that document do not have mention that applicant was admitted in emergency cannot be construed that it was not a case of emergency disease.

12. Regarding claim of Kolkata hospital, the stand of respondent for denial of claim cantered around the contention that applicant had to inform the SSA/Head of his Controlling Officer soon after his hospitalisation but no such information was given by him and though applicant claimed that he has faxed the letter but no such fax was received in the office and that the fax report, supplied with the OA is not correct and by doing over - writing telephone number has been corrected. Said version of respondent appears to be a bald version. It is also the case of respondents that after receiving the claim in the office of respondents, Accounts Officer (Medical) scrutinised the claim and asked for some documents from the claimant vide letter No. AT / AO (Salary-III)/IDMR8/KTP/2015-16 Dt.26.08.2015 & Dt. 29.12.2015, said letter has been annexed as Annexure **A/12** by applicant and this letter does not reveal that any objection at that time was raised that applicant had to inform the SSA/Head of his Controlling Officer soon after his hospitalisation but no such information was given by him. Applicant categorically has pleaded and asserted that he immediately informed the respondents by Fax. He also has enclosed copy of fax with the OA. Anyhow, it is not the case of the respondents also that no treatment was taken at Kolkata.

13. Action of the respondents in not allowing the claims appears to be arbitrary and violative of principles of natural justice and also in violation of settled legal proposition of law. The medical claim ought not to have been denied merely because the name of the hospital is not included in the Government Order. The real test must be the factum of treatment and once, it is established, the claim cannot be denied on technical grounds. We therefore, quash the decision (Annexure A/1) dated

13.01.2016 of respondent no.3 whereby and whereunder claim for medical reimbursement of applicant has been rejected.

14. In the present view of the matter, we direct the respondents to pay, within two months, the amount of expenses incurred by applicant, admissible under rules for reimbursement, for taking treatment, on 27-28.3.2012 at Ratandeeep Surgical Hospital, Maninagar and from 20.07.2015 to 30.07.2015, at Kothari Medical Centre, with interest @ 9% per annum, w.e.f. date of filing of this OA which as per record is 07/02/2017. If the payment is not made within two months, as has been directed in that eventuality applicant shall be entitled to penal interest @ 18 % per annum of delayed period.

15. In view of the foregoing discussion, we dispose of instant OA with the above terms.

[M.C.Verma]

Member (J)

[Archana Nigam]

Member (A)

mehta