

Open Court

**CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD
BENCH
ALLAHABAD**

Original Application No.330/01233 of 2014.

This, the 26th day of October, 2018

HON'BLE MR. RAKESH SAGAR JAIN, JUDICIAL MEMBER

Shri Raj Kumar Yadav, Presently working as CLL/ETC/Kanpur,
Resident of 620/80 'W' Block Tulsi Vihar, Keshav Nagar, Kanpur.

-Applicant

(By Advocate – Shri Jaswant Singh.

V e r s u s

1. Union of India, through General Manager, North Central Railway, Headquarter Office, Allahabad.
2. Chief Medical Director, Headquarter at Subedarganj, Allahabad.
3. Chief Medical Superintendent, North Central Railway, Allahabad.
4. Senior Divisional Medical Officer, SDH/CNB, N.C.R., Kanpur, North Central Railway, Kanpur.
5. Assistant Divisional Electrical Engineer (Optg) N.C. Railway, Kanpur.

-Respondents

(By Advocate – Shri Chandra Shekhar Rai)

ORDER

1. This Original Application has been filed under Section 19 of the Administrative Tribunals Act, 1985 seeking following reliefs:-

“(i) This Hon’ble Tribunal may graciously be pleased to quash the impugned orders dated 27.02.2013 passed by the respondents (Annexure A-1 to the present Original Application).

(ii) This Hon’ble Tribunal may graciously be pleased to direct the respondent No. 2 to make payment of claim of medical reimbursement dated 13.08.2012 i.e. Rs. 80,815/- with admissible interest thereupon.

(iii) any other relief which this Hon’ble Tribunal may deem fit and proper in the circumstances of the case may given in favour of the applicant.

(iv) award the costs of the original application in favour of the applicant.”

2. Case of the applicant Raj Kumar Yadav is that is employed in the respondent department. On 28.06.2012, his wife fell ill with severe abdominal pain and became unconscious. Seeing her serious medical condition, applicant took her to the nearest hospital which was at a distance of 04 Km. i.e. Marimpur Hospital rather than the loco hospital which was at a distance of 04 Kms. It is further averred in the application that since it was impossible to reach the Railway Hospital and looking to the serious condition of his wife, she was taken to the nearest hospital i.e. Marimpur Hospital situated at Shastri Nagar, Kanpur for immediate medical treatment where stone pain specialists doctor attended the wife of the applicant and gave necessary medical treatment in emergency to save the life of applicant’s wife. The serious medical nature of his wife can be gauged from the certificate

issued by the Marimpur Hospital (Annexure A-2). The applicant in this regard also informed the Chief Medical Superintendent, North Central Railway Kanpur on 29.06.2012. The surgery was conducted successfully on 29.06.2012.

3. It is a further case of the applicant that the condition of his wife deteriorated and the applicant rush to Railway Medical Authorities who referred the case to Regency Hospital Kanpur. The Marimpur Hospital and Regency Hospital Kanpur gave a collective bill of Rs. 80815/- for the medical treatment of applicant's wife. The applicant submitted a claim for reimbursement of the medical expenses incurred in the medical treatment of his wife which was rejected by the Respondent No. 3. That applicant filed an appeal to the Chief Medical Director for disbursing of the medical claim wherein he had mentioned the details of the emergency in which he took his wife to the nearest hospital rather than the Railway Hospital which was at a longer distance. The appeal has not been decided as yet. Hence, the present OA seeking a direction to quash the order dated 27.02.2013 passed by Respondent No. 3 whereby his medical claim was rejected.

4. In the counter affidavit filed by the respondents it has been averred that the medical claim of the applicant was rejected under Rules since it was found that the medical problem faced by the wife of the applicant was not a life threatening medical problem and the applicant could have taken his wife to the

Railway Hospital. It is further averred in the counter affidavit that the operation performed upon the wife of the applicant could have been undertaken at the Railway hospital Kanpur and therefore, there was no emergency to take the wife of applicant to the private hospital.

5. I have heard and considered the arguments of the learned counsels for the parties and gone through the material on record.

6. It has been argued by the learned counsel for the applicant that in the counter affidavit there is no specific denial to the averments made in the OA that his wife was having a serious life threatening medical problem which require immediate medical assistance in a hospital and therefore, looking to the emergency, his wife was got admitted in the private hospital. LC for applicant further submitted that no reasons have been given by the respondents while rejecting his medical claim, as such, direction be given to the Respondents to reimburse his medical claim.

7. On the other hand, learned counsel for respondents while reiterating the pleas taken in the counter affidavit has argued that it was incumbent upon the applicant to get his wife medically treated in the Railway Hospital and the emergency was not of grave nature so as to take her to a private hospital and therefore, the OA being meritless be dismissed.

8. I have perused the pleadings of the parties. There is no specific denial in the counter affidavit to the averment of the applicant that his wife was having a life threatening a medical

problem and there was no option for the applicant but to take her to a private hospital rather than the Railway hospital which was later a longer distance from the applicant's house. The fact that applicant's wife was having a serious medical problem is apparent from the fact that she underwent an operation on 29.06.2012 which is clear from the certificate issued by Marimpur Hospital Kanpur (Annexure A-2).

9. Learned counsel for the applicant placed on record Circular No. 2014/H-1/19/3/PNM dated 05.10.2015 issued by Government of India, Ministry of Railways (Railway Board) wherein it has been held that acute abdomen pain is an ailment which can be treated an emergency.

10. Having examined the submissions made by both the parties, it is felt that while the reimbursement of medical claims for treatment undergone in non recognized hospital is subject to the approval by the Competent Authority in accordance with the relevant rules, it is apparent from the facts as stated by applicant in the present case, that the situation so emerged that obtaining the requisite permission in this regard may have delayed the Medical attention required by the applicant and could have posed a threat to his life in view of the fact that the Railway Hospital was situated at a considerable distance from the place where the applicant was residing.

11. It is a matter of common knowledge that serious ailments occur suddenly and require prompt attention. In such events the

natural reaction of the family members would be to ensure immediate treatment rather than to get bogged down with the prescribed formalities saving of life becomes the prime concern. Accordingly, in the given circumstances the claim of the applicant deserved due consideration of Competent Authority rather than being outright rejected on technical grounds.

12. In view of the aforementioned facts and circumstances I feel that the medical claim of the applicant for treatment in a private hospital is based upon adequate justification. Accordingly, the impugned order dated 27.02.2013 issued by the Chief Medical Director Central Railway are set aside. The respondents are directed to reimburse the medical claim of the applicant in accordance with the Rules as are applicable to Railway employees in cases of emergency treatment undergone in unrecognized hospitals. The above exercise shall be completed and payment made within a period of three months from the date of receipt of this order. The Original Application is allowed. No order as to costs.

(RAKESH SAGAR JAIN)
Member (J)

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