

Reserved

**CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH
ALLAHABAD**

Original Application No.330/01663 of 2012

This the 24th day of October, 2018

HON'BLE MR. RAKESH SAGAR JAIN, JUDICIAL MEMBER

Ghanshyam son of Sri Dhanna Mal Resident of 56/307, Nagla Fakir
Chand Near Idgah Bus Stand, Agra.

-Applicant

(By Advocate – Mr. Anup Kumar

V e r s u s

1. Union of India, through Secretary, Ministry of Health, Govt. of India, New Delhi.
2. Director General/Chairman, Indian Council of Medical Research Ansari Nagar, New Delhi.
3. Director, National Jalma Institute for Leprosy and other Mycobacterial Diseases (Indian Council of Medical Research), Post Box-1101, Tajganj Agra 282001.
4. Administrative Officer, National Jalma Institute for Leprosy and other Mycobacterial Diseases (Indian Council of Medical Research) Post Box 1101, Tajganj, Agra 282001.

-Respondents

(By Advocate – Shri M.B. Singh)

ORDER

1. Case of applicant Ghamshyam is that he is working as Office Assistant in Account Section of respondent No. 3 and his date of retirement is 28.2.2013. In month of September 2011, he was diagnosed as suffering from CKD, ESRD and after recovery he was discharged from hospital on 9.10.2011. Applicant is entitled to medical reimbursement under the Central Services (Medical Attendance) Rules, 1944 (hereinafter referred to as the "Rules"). Pushpanjali Hospital and Research Centre Agra (hospital) is an

authorised Medical Attendance under the Rules to provide medical facilities to the employees of respondent No. 3. The hospital vide letter 30.9.2011 submitted a bill of estimated cost of treatment of applicant for Rs.40000/- to respondent No. 3 regarding which respondent No. 3 made a payment of Rs.36000/- to the hospital vide cheque dated 7.10.2011 and informed the hospital to submit the final bill against the advance for treatment of applicant. The hospital thereafter issued bill for Rs.99500/- vide invoice dated 8.10.2011 which after adjustment of Rs.36000/- came to Rs. 63500/- which was paid by applicant since hospital was not discharging the applicant without payment of the balance amount.

2. It is the further case of applicant that since respondent No. 4 had endorsed in letter that bill is to be submitted by the hospital and therefore after great effort on applicant's part, the dealing assistant forwarded copy of bill to respondent No. 3 on 7.9.2012 which bill was rejected by respondent No. 3 vide order dated 31.10.2012/2.11.2012 that applicant kept the bill in his custody and submitted the bill after lapse of prescribed period and also directed applicant to refund Rs.36000/- along with interest amounting to Rs.40070/-. In fact applicant had submitted the bill on 11.11.2011 which was forwarded to respondent No. 3 on 4.1.2012. The official of respondent No. 3 kept the matter pending and respondent rejected the claim on the ground that it was not filed within 3 months.
3. Further plea taken by applicant is that even if there was any delay for submitting the bill after 3 months, provision is therein Rules for condoning the delay which has not been exercised by respondent No. 3. Applicant placed reliance on Government of India, Ministry of Health vide O.M. No. S.14023 (1)/B/74-M.C. dated 21.8.1974 and G.I. H.M. OM No. S14025/22/78-MS dated 13.8.1981. His representation to respondent No. 3 for sending the bill to respondent No. 2 was rejected by respondent No. 3 and

returned to applicant on 26.11.2012 (Annexure-A7). Hence, the present O.A. seeking the following reliefs:

“(i) To call for the records and set aside the impugned order/memorandum No. P-7(6)/77-CJIL/494 dated 31.10.2012/02.11.2012 issued by the respondent No. 3 (Annexure A-1).

(ii) to issue an order or direction commanding upon the respondents to reimburse the amount of medical bill claimed by the applicant amounting to Rs.99,500.00 forthwith along with interest @ 12% per years.

(iii) To issue any other order or direction, as this Hon’ble Tribunal may deem fit and proper on the fact and circumstances of the case.

(iv) To award cost of this application to the applicant”.

4. As per the application in counter affidavit filed on 17.7.2013 in the Registry, the same has been filed by learned advocate for respondent No. 1 and 4 along with the counter affidavit. So, it seems that counter affidavit has not been filed by respondent No. 2 and there is no rebuttal to applicant’s case by respondent No. 2.

5. Para No. 4.16 and 4.19 and their reply in the counter filed by respondent No. 1 and 4 are reproduced as under:

“Para No. 4.16 of O.A:- That after receipt of order/memo dated 08/15.11.2012, the applicant personally met the respondent No.2 in his office and requested for reimbursement and therefore he was moved an application on 20.11.2012 to the respondent No.3 for sending the bill to the respondent NO.2 and further for condonation of delay in submitting the same. But the respondent No.3 on the representation of the applicant refused to forward the same and after making endorsement in the letter dated 22.11.2012 returned the same to the applicant on 26.11.2012. For kind perusal of this Hon’ble Tribunal, copy of the

representation dated 22.11.2012 bearing endorsement made by respondent No.3 dated 26.11.2012 is being filed herewith and marked as Annexure A-7 to the compilation No.II of this original application".

"Reply to para No. 4.16 in the Counter affidavit:- That in reply to the contents of paragraph No. 4.16, submissions made herein above are reiterated. It is most respectfully submitted that the applicant is wrong in stating that he has raised this issue of condonation of delay during the meeting to respondent No.2. At the said meeting, respondent No.3 was also present and the applicant has not discussed this issue before the Respondent No.2".

Para 4.19 of the OA reads as under:-

"4.19 That thereafter the applicant sent a representation dated 27.11.2012 to the respondent No.2 and 3 through registered post. For kind perusal of this Hon'ble Tribunal, photocopy of the representation dated 27.11.2012 along with postal receipt is being filed herewith and marked as Annexure A-9 to the compilation No.II of this original application".

Reply to para 4.19 in the counter affidavit reads as under:-

"4.19 That in reply to the contents of paragraph No. 4.19 are matter of record".

Reference may also be made in para 10 of the Rejoinder Affidavit, which reads as under:

"That the contents of paragraph 12 of the counter affidavit are wholly misconceived and hence denied and in reply thereto the contents of paragraph No. 4.16 of the original application are reiterated and reaffirmed. It is relevant to state here that the contents of paragraph 12 of the counter affidavit has been sworn on the basis of record which cannot be based, because the respondent No. 3 has never denied this fact. But the affidavit has been filed by Dr. Devendra Singh Chauhan, who is not

respondent No.3 nor he was claiming that he was present on that occasion. Thus denial by a third person on the basis of record is totally misconceived".

6. Looking to the Counter Affidavit being sworn by Dr. Devendra Singh Chauhan, the contention of applicant to the effect that the affidavit has been sworn by Dr. Devendra Singh Chauhan, who is not respondent No.3 nor he was claiming that he was present on that occasion. Thus denial by a third person on the basis of record is totally misconceived.
7. The representation of applicant mentioned in Para No. 4.16 and 4.19 read as under:

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8. In these circumstances and keeping in view the OMs mentioned in the O.A., respondent No. 3 ought to have forwarded the representation of the applicant to the competent authority for condonation of delay in submission of the bill. In these circumstances, respondent No. 3 is directed to send the representation of the applicant to the competent authority to decide the question of condonation of delay in late submission of the medical bill by the applicant within a period of one week from the date of receipt of the certified copy of this order. The representation shall be decided by the competent authority within a period of 3 months from the date of receipt of the representation of the applicant forwarded by respondent No. 3 by way of a reasoned and speaking order and the same shall be conveyed to the applicant. O.A. is accordingly disposed of. No order as to costs.

(Rakesh Sagar Jain)
Member (J)

Manish/-