

(On 26.04.2018)

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Dated: This the **15th** day of **May** 2018

Original Application No.330/00355 of 2014

Hon'ble Mr. Gokul Chandra Pati, Member (A)

Karan Singh Chauhan, S/o Late Daulat Singh, Presently posted as Assistant Divisional Engineer at Railway Station, North Central Railways, Aligarh, R/o House No. 253, Railway Colony, near Railway Hospital, Aligarh.

.....Applicant

By Adv: Shri Vinod Kumar and Shri Ram Surat Patel

V E R S U S

1. Union of India through General Manager, North Central Railway, Allahabad.
2. General Manager, North Central Railways, Allahabad Division Allahabad.
3. Chief Medical Superintendent North Central Railways, Kanpur.
4. Chief Medical Superintendent, North Central Railways, Aligarh.

.....Respondents

By Adv: Shri P. Mathur

ORDER

The OA has been filed for the following reliefs:-

- a. This Hon'ble Tribunal may be pleased to direct the respondents / authorities to reimburse the claimed amount of Rs. 2,56,005/- which was expended by the applicant in his treatment.***
- b. This Hon'ble Tribunal may be pleased to issue any other suitable order or direction as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.***
- c. This Court may further be pleased to allow this claim petition / application with costs in favour of the applicant."***

2. The applicant, while working as Assistant Divisional Engineer, under North Central Railway, Dhaulpur, fell sick and he was admitted on 17.09.2010 in Railway Hospital first and then in Upadhyay Hospital, Agra which is a private hospital recognized by the Railways. On 27.09.2010, the applicant was discharged from Upadhyay Hospital with advice for further treatment. As his condition was critical, the wife of the applicant admitted him in Medanta Medicity Hospital, Gurgaon, where the Doctor after detailed tests advised bypass surgery treatment for the applicant. Then

the bypass surgery was done and after surgery, the condition of the applicant improved and finally, he was discharged on 11.10.2010, vide the discharge certificate dated 11.10.2010 (Annexure no. 2 to the OA). The applicant submitted an application dated 17.01.2011 (Annexure no. 3) for reimbursement of Rs. 2,56,005/- which was spent by him for treatment. On 5.04.2011, the applicant submitted the copy of the receipt of the hospital in support of the claim. The authorities scrutinized the claim and decided to reimburse Rs. 1,40,000/- against the claim of the applicant. The claim of the applicant is for full reimbursement of the amount spent by him.

3. The respondents have filed their counter reply, stating therein the following:-

- The claim of the applicant was not accepted as he was admitted to a hospital on his own without being referred by competent medical authority and he did not choose other empanelled hospitals like Apollo hospital, which are competent for the treatment given to the applicant.
- There is no document to show that the applicant was consulted by any local medical officer after his discharge from Agra. Hence, the claim is liable to be dismissed.
- The applicant's condition was stabilized when he was discharged from Agra hospital as the discharge certificate of the hospital at Annexure no. 1 of the OA shows. But instead of taking further advice as per the discharge certificate, the patient was admitted to Madanta hospital on his own.
- The documents submitted by the applicant were deficient as no detail of the consultation for different conditions of the patient in the hospital was furnished. However, the bills were checked and the amount applicable as per the CGHS rates i.e. Rs. 1,30,000/- for CABG and Rs. 10000/- for coronary angiography, total Rs. 1,40,000/- was sanctioned against the claim as per the Railway Board letter dated 31.01.2007 (Annexure CR-1 to the counter reply).

- It is also submitted that the applicant has not submitted any representation against rejection of his claim and has approached this Tribunal without exhausting departmental remedy.

4. Learned counsels were heard. Applicant's counsel reiterated the contentions in the OA and emphasized the emergency condition of the applicant due to which formalities like prior consultation with the railway medical authority could not take place before admitting him in Medanta hospital and that his treatment at the Railway referral hospital in Agra could not be done properly. He further submitted that the Railway Board circular permitted such treatment in emergency conditions and hence, there is no justification for not allowing the claim fully. Learned counsel also pointed out to the copy of the judgment dated 18.02.2011 (Annexure no. 8 to the OA) of Hon'ble Rajasthan High Court in the case of Swaroop Singh vs. The State of Rajasthan and Ors in which it has been held that the full amount of expenditure incurred by the patient in emergency condition should be made. It was argued that similar benefit should be extended to the applicant also. The applicant's counsel has also submitted copy of the judgment of Ernakulam Bench of this Tribunal in the case of ***N. Satheesan vs. Union of India and others in O.A. No. 740 of 2015*** reported in ***2017 (2) (CAT) 428*** and other judgment of Allahabad Bench of this Tribunal in ***OA No. 1739 of 2013*** in the case of ***Amar Singh vs. Union of India & Others***.

5. Learned counsel for the respondents, on the other hand, submitted that the applicant was discharged in stable conditions as would be clear from the discharge certificate of Agra hospital copy at Annexure no. 1 of the OA, hence, there was no emergency conditions warranting immediate hospitalization in a private hospital in Gurgaon. Further, as per the Railway Board circular, the medical certificate did not show any emergency conditions. Hence, the applicant should have been referred by the Railway Hospital for further treatment. It was submitted that the claim of the applicant has been restricted to government approved rate for the treatment provided to the applicant.

6. The case of the applicant was processed as per the Railway Board circular dated 31.01,2007 (Annexure CR-1 to the counter reply) as stated by the respondents. Admittedly, the applicant has been admitted in a non-recognized private hospital, i.e. Medanta Hospital, Gurgaon without any prior consultation or reference from Railway medical authority. The circular

dated 31.01.2007 of the Railway Board states the procedure for processing the reimbursement claims as under:-

“II Calculation of the amount of reimbursement to be sanctioned out of the claimed amount:-

Once the emergency is established beyond doubt, then the case should be further processed for calculating the amount/money to be sanctioned.

For that, following guidelines are given:-

- a) *Treatment taken in Govt. Hospital - Full admissible amount should be recommended for sanction.*
 - b) *Treatment taken in Recognized Private Hospital for an ailment for which it is recognized -Rate as approved by Railway should be processed for sanction.*
 - c) *Treatment taken in a Recognized Private Hospital but for an ailment for which it is not recognized or treatment taken in a non- recognized Private Hospital:- Reimbursement should be made at the CGHS rates of that city or nearest city. CGHS (Central Govt. Health Scheme) approved rates are to be recommended/processed as an upper limit for sanction.*
- III** *The approved rates of private hospitals recognized by Railway should be put on the Web sites of the Zonal Railways so that at all levels of processing /sanction these are accessible to all concerned.*
- IV** *In Medical Science, no list can be fully exhaustive. Hence, it is likely that there will be few occasions when a claim has been submitted which is not appearing exactly in the CGHS rate list. On these cases, the MD/CMS/MS in charge of Divisions will apply their mind and will come to a logical conclusion. Then, they will pass a speaking order to certify the rate/s being recommended, in consultation with Associate Finance.”*

7. From the above provisions, the fact that the respondents have processed the claim of the applicant and accepted it partly, shows that the case has been treated as an emergency case in the light of the circular dated 31.01.2007. Otherwise, the claim would have to be rejected fully as per the said circular. Hence, the objections in the counter reply to the contention of emergency conditions are not acceptable.

8. About the amount decided to be reimbursed by the respondents, it is seen from the para 9 of the counter reply that the amount of Rs. 1,40,000/- approved for reimbursement was for the CGHS approved rate of Rs. 1,30,000/- for CABG and Rs. 10,000/- for angiography. It is seen from the copy of the documents and bills of Medanta hospital furnished by the applicant in the OA, there are other charges on account of room charges and charges on account of tests and consultation for which no amount has been approved for reimbursement by the respondents. As per the par IV

of the Railway Board circular dated 31.01.2007, even the items for which the claim are not as per the CGHS approved list, the competent medical authority can take a decision based on logical conclusion and pass a speaking order certifying the rates to be reimbursed.

9. The applicant has referred to the case of Swaroop Singh (supra) decided by Hon'ble Rajasthan High Court at Jodhpur. In that case, the hospital where the treatment was undertaken by the petitioner was an enlisted hospital under Rajasthan Civil Services (Medical Attendance) Rules, 1970 as noted in the judgment cited by the applicant. In other words, the hospital where the petitioner was treated was a recognized hospital under the rules. But in this OA, the applicant was admitted in Medanta hospital, which was admittedly not a recognized or empanelled hospital of the Railways. Hence, the facts of this OA are quite different from the facts of Swaroop Singh case cited by the applicants. Hence, the ratio of the judgment in Swrooop Singh (supra) will not be helpful for the applicant's case.

10. In the case of N. Satheesan (supra) the applicant was covered under CCS (Medical Attendance) Rules, and under Central Government Health Scheme where the provision relating to medical reimbursement are different to the rules applicable for the Railways. Hence, this case is strictly not applicable to the applicant's case. In the case of Amar Singh (supra) the applicant was a Railway servant and he felt chest pain for which he was hospitalized in a private hospital, but was discharged on the next day. He again felt chest pain after about 09 days, for which he admitted to Medanta Hospital, Gurgaon for medical treatment. His claim for medical reimbursement was rejected by the authorities on the ground that his case was not referred by Railway authorities. This Tribunal after examining the Railway Board's Circulars dated 31.01.2007 and 22.06.2010 found that the case of the applicant was a real emergency situation under the Railway Board's Circular dated 31.01.2007. Further, he had contacted the Railway hospital, but his case was not entertained there as he did not have medical card. Hence, there was a genuine reason for his admission to Medanta Hospital, Gurgaon without completing the formalities. In this OA there was no such emergency like heart attack. The applicant was admitted in Updhayay hospital for which is recognized by Railways before he was discharged with a discharge certificate stating his condition to be stable with advice for further consultation / treatment for which the applicant went to Medanta Hospital,

Gurgaon instead of approaching the nearest Railway hospital first. However, the facts that there was an emergency condition for the applicant has been accepted in this case as the respondents have accepted the claim of the applicant to the extent of Rs. 1,40,000/-, unlike the facts in the case of Amar Singh (supra). So the facts of the OA No. 1739/13 are different from the facts of the present OA.

11. In the circumstances, the applicant is given liberty to make a fresh representation to the respondent no. 2 with copy to the respondent no. 4 furnishing the details of his treatment / medical reports as mentioned in para 9 of the counter reply to claim reimbursement of the additional amount over and above the amount of Rs. 1,40,000/- sanctioned already by the respondents, alongwith a copy of this order within one month. If such a representation is submitted within time as stated above, then the respondent no. 2/competent authority shall get the matter re-examined in accordance with the paragraph IV as well as other provisions of the Railway Board circular dated 31.01.2007 and pass a speaking and reasoned order to dispose of the said representation of the applicant and communicate with a copy to the applicant within three months from the date of receipt of the fresh representation of the applicant in pursuance to this order.

12. The OA is disposed of with directions in terms of para 10 above. There is no order as to costs.

(Gokul Chandra Pati)
Member (A)

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