

(OPEN COURT)

**CENTRAL ADMINISTRATIVE TRIBUNAL,
ALLAHABAD BENCH
ALLAHABAD**

The 10th day of *August*, 2018.

HON'BLE MR. GOKUL CHANDRA PATI, MEMBER (A).

Original Application Number. 330/00636/2013

1. Smt. Reeta Singh, aged about 60 years, W/o late Shri Vinod Kumar Singh, permanent R/o village & P.O – Sadarpura, Distt. Chandauli.
2. Rahul, aged about 30 years, S/o late Shri Vinod Kumar Singh, permanent R/o village & P.O – Sadarpura, Distt. Chandauli

.....Applicants.

VER S U S

1. Union of India through the General Manager, East Central Railway, Ram Ashish Chowk, P.O. Diggi, Hazipur (Bihar).
2. The Chief Medical Director, East Central Railway, Ram Ashish Chowk, P.O. Diggi, Hazipur (Bihar).
3. Divisional Railway Manager, East Central Railway, Mughalsarai.
4. The Chief Medical Superintendent, East Central Railway Hospital, East Central Railway Hospital, Mughalsarai.

.....Respondents

Advocate for the applicant : Shri Rakesh Verma
Advocate for the Respondents : Shri Manish Kumar Yadav

ORDER

Heard Shri R. Verma, counsel for the applicant and Shri M.K. Yadav, counsel for respondents.

2. The facts of this case are that the late husband of the applicant no.1 was a railway servant working as an Assistant Teacher, who developed male breast cancer while in service. He was admitted to the Institute of Medical Science, B.H.U. (referred in

short as IMS) and underwent a surgery on 23.2.2010 and the smears were sent for biopsy. Biopsy report confirmed that he had male breast cancer (referred in short as MBC). Thereafter, he underwent necessary treatment in IMS and was discharged from IMS on 27.2.2010 vide the discharge certificate at Annexure A-2 of the OA. Then the applicant's husband contacted the railway medical authority i.e. the respondent no. 4, who referred his case to IMS for follow up chemotherapy and treatment vide the letter dated 10.3.2010 (Annexure A-1 to the OA), after which he underwent follow up treatment and chemotherapy in IMS after 10.3.2010 as the endorsements in the discharge certificate at Annexure A-2 would reveal. The treating doctor has given an estimated expenditure of Rs. 20 lakh for the treatment vide letter dated 22.3.2010 (Annexure A-3). After treatment, the deceased employee submitted the bills amounting towards the cost of treatment incurred and the total bill amount was Rs. 13,81,514.80 (Annexure A-4). He submitted a representation dated 10.3.2012 (Annexure A-6) and 10.8.2012 (Annexure A-7) to the respondent no. 4 for release of the amount towards reimbursement of medical expenditure. But it was not considered by the respondents till he retired from service on 30.11.2012. Hence, this OA was filed by the deceased employee with following prayers:-

“(i). to issue a writ, order or direction in the nature of Mandamus directing the Respondent Nos. 2 & 4 to reimburse the amount of Rs. 13,81,514.80/- under the Medical Attendance Rules which the petitioner has incurred while undergoing medical treatment of “Mal Breast Cancer”.....”

During pendency of the OA, the husband of the applicant died and vide order dated 29.4.2015, the applicants, being the wife and son of the deceased employee, were substituted.

3. The facts have been broadly admitted in the Counter reply filed by the respondents. However, the following averments regarding the pending claim have been made:-

- Respondent no. 4 referred his case to IMS. But the applicant got admitted in IMS earlier i.e. on 22.1.2010 and was discharged on 27.2.2010.
- Applicant has submitted the bills amounting to Rs. 13,81,514.80 as against the estimated expenditure of Rs. 20 lakh and the bills are “under process for payment” as the formalities take some time.
- The applicant should have contacted the railway Medical Officer when he became ill or before treatment in IMS without any reference. After detection of MBC, the applicant contacted respondent no. 4 who referred him to IMS for specific treatment.
- The applicant has falsely claimed to have submitted the representations dated 10.3.2012 and 10.8.2012. The applicant was informed to file separate case so that it can be dealt as per the SOP for without referral, but no action was taken by the applicant. Hence, the matter was processed treating the case as without referral.

4. The learned counsel for the applicant was heard. He submitted that the matter was pending with the respondents for quite long in spite of the fact that there was reference of the patient for follow up treatment to IMS by the respondent no. 4. Learned counsel for the respondents submitted that the claim of the applicant was pending and it will be decided soon.

5. I have considered the submissions and the pleadings on record. It is a fact that the deceased employee first went to IMS without any reference from the medical authority of the respondents. But after detection of MBC and his discharge from

IMS on 27.2.2010, he had approached the respondent no. 4 who has referred his case to IMS for follow up treatment. At that time he did not raise any comment or objection on the point that the applicant got admitted in IMS prior to any reference by the railway medical authority. It is also seen from the discharge certificate at Annexure A-2 that treatment was continued after the date of reference by respondent no. 4 to IMS, i.e. 10.3.2010 and consequently, the medical expenditure bills must also have included the expenditure incurred after 10.3.2010. Since, the respondent no 4 has referred the case of the deceased employee to IMS on 10.3.2010 for follow up treatment, which was duly undertaken by him and no show cause notice or letter was issued to the deceased employee to ascertain the reasons for not approaching railway medical officer first before admission in IMS on 22.1.2010, it is unjust to raise this issue at this stage by the respondents. Further, the deceased employee did not approach any private medical hospital without reference, he had first approached IMS, which is an institution authorized by the Railways as a referral medical hospital. No guidelines or rule have been produced by the respondents to show that under these circumstances, there is any difficulty in considering the bills submitted by the deceased employee. There is nothing in the pleadings of the respondents to justify the delay that has occurred in processing the applicant's claim, except referring to some procedure as per SOP in the Counter reply and copy of such SOP was not enclosed to the Counter reply.

6. In view of the facts and circumstances as discussed above, I am of the considered view that there is no justification on the part of the respondents to have delayed the medical claim of the deceased employee, particularly after his retirement on 30.11.2012 and as he was a cancer patient, who had incurred

expenditure from his resources and the applicants are entitled for the relief prayed for in the OA. Hence, the respondents are directed to consider sanction of reimbursement of the medical expenditure against the claim of Rs. 13,81,514.80 in accordance with the rules and disburse the amount to be sanctioned within two months from the date of receipt of a copy of this order. In case of failure to disburse the amount within the time stipulated above, taking into account the abnormal delay in considering the claim without any satisfactory explanation and in the interest of justice, the respondents are also directed to pay an interest at the rate of 8% per annum from the date of retirement of the deceased employee on 30.11.2012 on the due amount till the date of actual payment.

7. The OA is allowed as above. No costs.

MEMBER- A.

Anand...