

(Reserved on 25.05.2018)

**CENTRAL ADMINISTRATIVE TRIBUNAL,
ALLAHABAD BENCH
ALLAHABAD**

This the 01st day of **June, 2018**.

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

Original Application Number. 330/00320/2017

Smt. Veena Singh, a/a 56 years, W/o Shri S.K. Singh, R/o Railway Quarter No. 291-B, New Loco Colony, North Eastern Railway, Varanasi.

.....Applicant.

VE R S U S

1. Union of India through its General Manager, North Central Railway, Gorakhpur.
2. Director of Cancer Institute, Indian Railway Cancer Institute, Varanasi.
3. Chief Medical Officer, Divisional Mandal Chikitsalaya, North Eastern Railway, Varanasi.
4. Divisional Railway Manager, North Eastern Railway, Varanasi.
5. Chief Medical Superintendent (CMS), North Eastern Railway, Varanasi.

.....Respondents

Advocate for the applicant : Shri V.K. Srivastava
Shri R.K. Singh

Advocate for the Respondents: Shri P.K. Srivastava

ORDER

By means of the present original application the applicant has prayed for following main reliefs: -

“(i). issue an order or direction in the nature of certiorari to quash the impugned order dated 25.05.2016 passed by the Chief Medical Officer, Divisional Mandal Chikitsalaya, North Eastern Railway, Varanasi – respondent no. 3 and order dated 24.06.2016 passed by the Chief Eastern Railway, Varanasi – respondent no. 5 (Annexure No. 6 and 8 to the Original Application).

(ii). issue an order or direction in the nature of mandamus commanding the respondents to make the payment of remaining medical reimbursement of amount of Rs. 50,116/- as mentioned in the certificate dated 24.06.2016.” .

2. The facts of the case, as per the O.A, in brief are that the applicant on being found as a cancer patient was referred to SSL Hospital, Varanasi on 03.11.2015 (Annexure A-1) by the Railway Doctor. After treatment, the applicant submitted medical bills alongwith vouchers for the period from 09.11.2015 to 10.02.2016 duly verified by the Head of Department of Gastroenterology, Institute of Medical Sciences, BHU, Varanasi to the ADMO, N.E. Railway Divisional Hospital, Varanasi on 26.04.2016 (Annexure A-4). But the applicant was paid only Rs. 28,351/- towards her claim for Rs. 78467/-. The applicant preferred a representation dated 16.05.2016 (Annexure A-5) to the Chief Medical Superintendent, North Eastern Railway Divisional Hospital, Varanasi for reimbursement of rest amount of Rs. 50116/-, which was rejected

vide order dated 25.05.2016 (Annexure A-6). Thereafter, the applicant preferred another representation dated 14.06.2016 (Annexure A-7) to the Chief Medical Superintendent, North Eastern Railway Divisional Hospital, Varanasi (respondent No. 5) for redressal of her grievances. The Chief Medical Superintendent vide order dated 24.06.2016 (Annexure A-8) rejected the claim of the applicant for payment of Rs. 50116/- on the ground that from 28.11.2015 to 10.02.2016, the medicines have been purchased from outside, which is against the rules. For further treatment, the medicines ought to have been purchased through the Railway hospital.

3. Aggrieved, the applicant has filed the instant O.A on the ground that the respondents have illegally and arbitrarily included the condition in Clause 01 in the letter dated 03.11.2015 and has passed the impugned orders dated 25.05.2016 and 24.06.2016 on technical grounds. It is contended that the applicant, who is suffering from chronic hepatitis -C Genotype, submitted medical bills of Rs. 78,467/- alongwith vouchers on 26.04.2016 duly verified by the Head of Department of Gastroenterology, Institute of Medical Sciences, BHU, Varanasi, hence, she is entitled for entire amount of Rs. 78,467/- which was verified by the competent authority.

4. The respondents did not file their counter affidavit in spite of adequate opportunity including the last opportunity allowed to them to file the counter affidavit vide order dated 02.05.2018.

5. Heard learned counsel for the applicant, who submitted that the amount spent by the applicant for follow up as per the discharge certificate has been wrongly disallowed.

6. From the representation dated 14.06.2016 (Annexure A-7) submitted by the applicant, it is seen that her claim of Rs. 50,116/- has been justified on the ground that the medicines have been purchased by her as per the follow up advice of the referral hospital in B.H.U, Varanasi and it is stated that such medicines were essential and have been recommended by the doctor of the referral hospital. The order dated 25.05.2016 reveals that the claim was not allowed by the respondents on the ground that after discharge from the referral hospital on 28.11.2015, the purchase of medicines should have been through the Railway medical authority. Nothing has been mentioned in the representation dated 14.06.2016 or in the OA filed by the applicant as to the reasons for not approaching the railway hospital for purchase of medicines required for follow up plan suggested by the B.H.U hospital for the applicant. As stated in the order dated 24.06.2016, purchase of this medicine by the applicant from outside without any reference to the railway medical authorities is against the rules, for which the claim of reimbursement was refused by the respondents. From the discharge summary issued by the referral hospital (Annexure

A-2), some medicines have been recommended for follow up of the applicant, which the respondents would have supplied, had the applicant approached them for such medicines. It will be, therefore, unfair if the claim for such medicines is rejected in full.

7. In view of the above, it will be just and fair to direct the respondents to reconsider the balance claim of the applicant based on the cost of the medicines suggested for follow up by the referral hospital in the discharge summary of the applicant (Annexure A-2) to the extent of the cost of such medicines as approved by the Railway hospital or otherwise, as per rule, since the respondents, in any case, would have spent that amount if the applicant would have approached them for such medicines required for him follow up treatment as recommended by the referral hospital. Hence, in the interest of justice, the respondent No. 5/ competent authority is directed to reconsider the claim of the applicant in the light of this order and dispose of the same by passing a reasoned and speaking order and communicate a copy of the said order to the applicant within two months from the date of receipt of a certified copy of this order. .

8. The O.A is disposed of as above. No costs.

**(GOKUL CHANDRA PATI)
MEMBER- A.**

Anand...