

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

T.A. No. 12/2012

New Delhi, this the 19th day of August, 2016

HON'BLE MR. P.K. BASU, MEMBER (A)

Mahender Pal Wadhawan
S/o Late Shri Ram Lal Wadhawan
R/o 55, Shankar Vihar, Vikas Marg
Delhi-110092.

.. Applicant

(By Advocate : Shri Ankit Kalra)

Versus

Delhi Transport Corporation
Through its Chairman,
Head Quarter Inderprastha,
New Delhi-110002.

.. Respondent

(By Advocate : Shri Ajesh Luthra)

ORDER (ORAL)

Heard the counsel for both sides.

2. We find that this matter has been going on since 2012. When the applicant met with an accident in 2008, he was taken to Shanti Mukund Hospital, which admittedly is a panel hospital for DTC. The panel hospital referred him to Apollo Hospital.

3. The claim of the applicant is for balance amount of medical expenses amounting to Rs.1,73,256.19 as he had actually spent Rs.3,17,705.19 but he was reimbursed only Rs.1,44,449/- because the respondents stand was that Apollo Hospital was not the panel hospital and, therefore, rates approved for AIIMS will apply. Settling

of dues to such poor paid employees, if it takes 8 years, reflect very poorly on the system as a whole.

4. The T.A. was originally allowed vide order dated 23.05.2012 and the Tribunal had directed as follows:

“5. In the facts and circumstances, noted hereinabove and keeping in view judgment of the Hon’ble High Court in the case of **Harpal Kaur Vs. DTC and Anr.**, we direct the respondents to reimburse the balance amount of expenses incurred on his treatment by the applicant in terms of para 3 of the Office Order No.16 dated 27.08.1991. As far as the claim of applicant for salary for the period from 03.11.2008 to 05.02.2009 is concerned, respondents may consider regularizing the said period by grant of leave admissible to him. They will also consider giving him such dues as are admissible during the leave of the kind in which said period would be treated/converted.

TA stands disposed of. No cost.”

5. The respondents went before the Hon’ble High Court and stated that the decision of the Single Judge in the Writ Petition filed by **Harpal Kaur** was set aside by Division Bench of High Court vide judgment dated 26.05.2008 and the Hon’ble High Court, therefore, remanded the matter back to this Tribunal requiring the Tribunal to decide the same as per law.

6. Since the order in the case of **Harpal Kaur** has been set aside by the Division Bench, that cannot be treated as precedence. However, we find from the facts of the case that the applicant on meeting with a road accident was shifted to panel hospital of DTC. The panel hospital referred him to Apollo Hospital. It is obvious that

the person, who has met with a road accident, his skull fractured and unconscious and is taken to the panel hospital, will not be in a state of mind, at that time, to negotiate with the doctors that he should be treated in that very panel hospital or another super-specialised panel hospital. In such cases, a doctor on duty is the best to advise and in his wisdom, he had recommended the patient to Apollo Hospital. The discharge certificate of Apollo Hospital diagnosis was as follows:

- “(i) Head injury with bifrontal small contusion.
- (ii) Left frontoparietal small acute subdural hematoma
- (iii) Fracture anterior cranial fossa skull bones.
- (iv) Fracture mandible.

He was admitted with loss of consciousness, vomiting, bleeding with nose and ear.”

7. From the facts of the case, it is apparent that there cannot be any mala fide on the part of the applicant to get into Apollo Hospital and claim extra charges from DTC. As mentioned earlier, it has taken 8 years with no solution to this simple matter. Much expenditure would have been incurred by DTC in litigation itself. Therefore, to close this chapter, we direct the respondents to pay the balance amount of Rs.1,73,256.19 to the applicant. As regards salary for the period between 03.11.2008 to 05.02.2009, the respondents may consider regularisation of said period by grant of leave admissible to him and also consider giving him such dues as are admissible during the leave of the kind in which said period will be treated/converted, in accordance with rules. The time frame

fixed for compliance of this order is 60 days from the date of passing of this order.

8. With the aforesaid directions, T.A. stands disposed of. No costs.

(P.K. Basu)
Member(A)

/Jyoti/