

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

O.A. No.694/2017

Order reserved on: 03.04.2018
Order pronounced on: 06.04.2018.

Hon'ble Mr. K.N. Shrivastava, Member (A)

Manju Saxena, aged 59 years,
W/o Sh. Arvind Saxena,
R/o GH-13, SFS Flats No.584,
Paschim Vihar, New Delhi-110087.

... Applicant

(By Advocate: Ms. Shruti Agrawal)

VERSUS

1. Union of India through
Secretary, Ministry of Agriculture,
Department of Agriculture and Cooperation
New Delhi.
2. The Director,
Central Government Health Scheme (CGHS)
CGHS (HQ) Sector 12,
R.K. Puram,
New Delhi-110022.

... Respondents

(By Advocate: Mr. S.M. Zulfiqar Alam)

ORDER

Through the medium of this Original Application (OA), filed under Section 19 of the Administrative Tribunals Act, 1985, the applicant has prayed for the following main reliefs:

“b) quash and set aside the Impugned order dated 09.04.2012 and declare the action of the Respondents in not sanctioning the reimbursement of full claim as illegal, arbitrary, discriminatory and unjust and in violation of the rules and regulations and principles of equity, justice and good conscience.

c) Direct the Respondents to Reimburse/release the full payment of medical claim alongwith interest @18 percent; and litigation cost and damages as the court deems fit in view the treatment was taken in emergent circumstances.”

2. The factual matrix of the case, as noticed from the records, is as under:

2.1 The applicant is working as a Data Entry Operator (DEO) in the Department of Agriculture and Cooperation, Ministry of Agriculture-respondent No.1. Her husband, who is also a CGHS beneficiary, was suffering from prolonged hypertension and diabetes which resulted in chronic kidney failure and both his kidneys stopped performing. He was treated at All India Institute of Medical Sciences (AIIMS).

2.2 The treatment did not show any sign of recovery and his condition started deteriorating. He was then subjected to Dialysis twice a week. Finally, the Doctors of AIIMS advised for kidney transplant. Since no donor with compatible blood group was available in the registered list of donors at AIIMS, the applicant took her husband to Sir Ganga Ram Hospital (SGRH). A donor was found there and his kidney was transplanted to the husband of the applicant and in lieu thereof, the applicant donated her one kidney to some other patient. An expenditure of Rs.8,98,416/- (Rupees eight lakhs, ninety eight thousand, four hundred and sixteen only) was incurred by the applicant towards the medical charges of her husband at SGRH, details of which are at Annexure A-6. SGRH

also issued Annexure A-5 certificate to the effect that applicant's husband has undergone kidney transplantation on 09.03.2011 at the said hospital.

2.3 The applicant applied for reimbursement of the medical expenses incurred at SGRH. However, the Department reimbursed only to the extent of Rs.1,43,750/- vide its impugned Annexure A-1 communication dated 30.04.2012.

2.4 Aggrieved by the impugned Annexure A-1 communication, the applicant has approached this Tribunal in the instant OA, claiming the reliefs, as indicated in para-1 supra.

3. Pursuant to the notices issued, the respondents entered appearance and filed their reply.

4. Arguments of the learned counsel for the parties were heard on 03.04.2018. The main contention of the respondents is that the applicant has been granted reimbursement as per the CGHS norms and accordingly an amount of Rs.1,43,750/- has been reimbursed towards the expenditure incurred by him.

5. I have gone through the pleadings and have also considered the arguments of the learned counsel for the parties. It is an admitted position that the applicant's husband was suffering with severe kidney problems and was advised kidney transplant. He initially availed treatment at AIIMS who advised for kidney

transplant. The transplant could not take place at AIIMS due to non-availability of a compatible donor. Left with no alternative and with a view to save life of her husband, the applicant took him to SGRH where a donor was found who donated his kidney and the same was transplanted on her husband. In return, the applicant also donated one of her kidneys to another patient, presumably as per the understanding with the donor. From these sequence of events, it is quite clear that the applicant's husband was taken to SGRH in emergency condition and needed immediate kidney transplant or else he would have died. Under these circumstances, it is inhuman on the part of the respondents not to reimburse the entire medical expenses of Rs.8,98,416/- incurred by the applicant on the treatment of her husband at SGRH. Even the CGHS guidelines prescribe that in emergency conditions treatment can be availed even at non-CGHS empanelled hospitals and the entire expenditure is reimbursable. I also find that in the instant case, respondent no.2 had, vide its Annexure A-14 letter dated 18.02.2011, strongly recommended to respondent no.1 for considering the case of the applicant for reimbursement sympathetically.

6. In the conspectus of the discussions in the foregoing paras, I am of the view that ends of justice would meet only by directing the respondents to reimburse the entire medical expenses, i.e. Rs.8,98,416/- (Rupees eight lakhs, ninety eight thousand, four

hundred and sixteen only) incurred by the applicant for the treatment of her husband at SGRH. Ordered accordingly.

7. There shall be no order as to costs.

(K.N. Shrivastava)
Member (A)

‘San.’