

Central Administrative Tribunal  
Principal Bench  
New Delhi

O.A.No.757/2015

M.A.No.619/2015

Order Reserved on: 22.12.2015

Order pronounced on 27.01.2016

Hon'ble Shri V. Ajay Kumar, Member (J)

Shri Kiran Kumar, aged about 53 years  
S/o Late Shri Gopal Das  
Working as Office Superintendent  
Under E.O./Vigilance, Northern Railway  
DRM Office, New Delhi. ... Applicant

(By Advocate: Shri Manjeet Singh Reen)

Versus

Union of India and Others: through

1. The General Manager  
Northern Railway  
Baroda House  
New Delhi.
2. The Chief Medical Director  
Northern Railway, Baroda House  
New Delhi.
3. The Chief Medical Superintendent  
Northern Railway  
Shyam Prasad Mukherjee Marg  
Delhi Main  
Delhi. ... Respondents

(By Advocate: Shri Satpal Singh)

## **ORDER**

MA 619/2015, filed for condonation of delay in filing the OA, is allowed for the reasons stated therein.

2. The applicant, an Office Superintendent under the respondent-Northern Railway, filed the OA questioning the action of the respondents in not reimbursing the balance medical expenditure to the extent of Rs.64,854/- out of the total claim of Rs.1,21,164/-, in connection with the treatment of the applicant's son during the period from 04.04.2013 to 17.04.2013 in Shishu Sadan Multispeciality Childrens Hospital, New Delhi, a non-recognized private hospital.

3. The brief facts are that the applicant's son aged about 20 years was admitted by the applicant's wife at Shishu Sadan Multispeciality Childrens Hospital, New Delhi due to his sudden critical condition on 04.04.2013, and he was treated there till 17.4.2013, incurring a total expenditure of Rs.1,21,164/-. Again the applicant's son was under medical treatment from 01.05.2013 to 04.05.2013, and on which date, unfortunately, he was expired.

4. The applicant's claim for reimbursement of the medical expenses incurred in connection with his son's treatment for the period from 04.04.2013 to 17.04.2013 and from 01.05.2013 to 04.05.2013 were considered by the respondents and in respect of both the claims the respondents reimbursed the same in terms of Annexure R-1-Instructions dated 31.01.2007, i.e., at the CGHS rates. Accordingly,

out of the total claim of Rs.1,21,164/-, in respect of the period from 04.04.2013 to 17.04.2013, the respondents have reimbursed an amount of Rs.56,310/- being the amount payable as per the CGHS rates, leaving an amount of Rs.64,854/-, which is the claim in the OA. The respondents have also reimbursed the expenditure of the 2<sup>nd</sup> spell, i.e., from 01.05.2013 to 04.05.2013, as per the CGHS rates, and the applicant has not raised any claim in respect of this 2<sup>nd</sup> Spell in this OA.

5. Heard, the learned counsel for the applicant and the learned counsel for the respondents, and perused the pleadings on record.

6. Since the respondents have not disputed the admission of the applicant's son in Shishu Sadan Multispeciality Childrens Hospital, New Delhi, a non-recognized hospital in emergency conditions and the quantum of the expenditure in the said hospital, and also reimbursed an amount of Rs.56,310/- being the amount payable as per the CGHS rates, out of the total claim of Rs.1,21,164/- of the applicant, the short question remaining in the present OA is whether the respondents are right in restricting the reimbursement to the CGHS rates as against the claim of the applicant for reimbursement of total expenses.

7. The learned counsel for the applicant placed reliance on the following decisions:

- a) O.A.Np.4426/2013 (**Shri Sunil Prasher v. The Director General, Railway Health Service, Railway Bhawan, New Delhi & Others**) decided on 16.02.2015 of the CAT, PB, New Delhi.
- b) O.A.No.3058/2013 (**Smt. Shanti Devi v. Union of India & Others**), decided on 11.12.2014, which as upheld by Hon'ble High Court of Delhi in WP(C) No.7540/2015 vide its Order dated 10.08.2015.

8. In **Sunil Prasher** (supra) the issue was that whether "Cleft Lip Nose Rhinoplasty", a treatment undergone by the daughter of the applicant therein, was a disease and the expenses incurred for the same were reimbursable as per rules. The point of payment of CGHS or the complete medical expenses of a non-recognized private hospital was not an issue and hence, the same has no application to the facts of the present case.

9. In **Shanti Devi** (supra), whether the circumstances in which the applicant therein was admitted into an Hospital and undergone the treatment was an emergency condition or not was the issue. Since the respondents in this OA have not disputed the emergency conditions in which the applicant's son was admitted into a non-recognized private hospital, the said **Shanti Devi** (supra) also has no application in this case. However, in the said case, finally it was directed to reimburse the medical expenses to the applicant "at the rates approved by the Northern Railway for the recognized private hospital vide Paragraph

648 (3) of IRMM 2000". The said order was upheld by the Hon'ble High Court of Delhi.

10. The respondents placed heavy reliance on the Annexure R1 dated 31.01.2007 whereunder certain instructions for disposal of the applications for reimbursement of the medical expenses by the Railway employees have been issued. The relevant paragraphs of the said Annexure read as under:

"The issue of bringing in objectivity, consistency and transparency in disposal of reimbursement cases, where the treatment has been taken in emergency without consultation with the Authorized Medical Officer, has been under consideration of the Board.

The Railway Board after thorough review of the whole subject of reimbursement has taken the following decisions which are to be implemented with immediate effect.

Any instructions on this subject as available in IRMM 2000 or any office order issued prior to this office order and will stand modified, accordingly.

**I The cases to be considered for sanction of reimbursement claim:**

To provide proper medical treatment, the Indian Railway Health Care Delivery system has 121 number of Railway Hospitals and 586 No. of Railway Health Units established all over India. In addition to this, all Govt. Hospitals and more than 115 private hospitals all over the country have been recognized to provide necessary medical treatment to Railway beneficiaries.

As per extant rules, a railway beneficiary must report to Railway Medical Officer for his/her and dependents' medical treatment. The Authorized Medical Officer will make necessary arrangements for medical treatment through Railway Hospital/Govt. Hospital/Pvt. Recognized Hospital. In exceptional situations, CMDs of Zonal Railways can obtain special permission from Railway Board for treatment in any Private Hospital on case to case basis. Hence, there is no scope available for any railway beneficiary to go to any private hospital himself/herself or their dependents on their own volition, except in case of real emergency situation."

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**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.

V All the reimbursement cases be processed as per check-list issued earlier to avoid back reference.

VI These instructions shall be effective from the date of issue of this letter. Past cases, already decided, shall not be re-opened.

VII. This issues with the concurrence of Finance Directorate of Ministry of Railways."

11. It is not disputed that Shishu Sadan Multispeciality Childrens Hospital, is a non-recognized private hospital. Hence, Instruction/Clause No.II(c), which provides for reimbursement of the medical expenses at the CGHS rates of the particular city or nearest city, is applicable. Hence, since the respondents reimbursed the

medical expenses as per the said Clause, and that the applicant has not questioned the validity of the said Clause, no fault can be found with the action of the respondents.

12. The applicant's counsel has also not able to show any other instructions of the Railways which superseded the Annexure R1, to take any different view in the matter.

13. In view of the aforesaid discussion, the OA is devoid of any merit and the same is dismissed. No order as to costs.

(V. Ajay Kumar)  
Member (J)

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