

**Central Administrative Tribunal
Principal Bench**

OA No.1651/2017

New Delhi, this the 02nd day of November, 2017

Hon'ble Ms. Nita Chowdhury, Member (A)

Gyani Ram,
S/o Late Sh. Maharaj Singh,
Aged about 59 years, CPWD,
R/o 128, Hari Nagar, Ashram,
New Delhi-110044.

... Applicant

(By Advocate : Shri C. Bheemanna)

Versus

1. Director General, CPWD,
Nirman Bhawan,
New Delhi-110011.
2. Chief Engineer, CPWD,
Sewa Bhawan, R.K.Puram,
New Delhi-110066.
3. Superintending Engineer,
Delhi Central Circle-VI, CPWD,
East Block-I, Level-6,
R.K.Puram,
New Delhi-110066.
4. Secretary,
M/o Health & Family Welfare,
Department of Health & Family Welfare,
Nirman Bhawan, New Delhi.

... Respondents

(By Advocate : Shri Rajinder Nischal)

ORDER (ORAL)

This OA has been filed by the applicant seeking the following reliefs :-

- “(i) Direct the Respondents to sanction the medical reimbursement claim of Rs.2,66,141/-)Rs. Two Lakhs Sixty Six Thousand One Hundred Forty one only), which the applicant has incurred for the treatment of his wife Mrs. Vinod Kumari in MAX Super Speciality Hospital, 2, Press Enclave Road, Saket, New Delhi-110017, which is a CGHS empanelled Hospital.
- (ii) Direct the Director General, CPWD (Respondent no.1) and M/o Health & Family Welfare, Govt. of India (Respondent no.4) to provide relaxation/condonation of any procedural lapse, if any, occurred and sanction the amount to the applicant.
- (iii) Direct the respondents to pay the interest on the above reimbursement of medical claim 2,66,141/- (Rs. Two Lakhs Sixty Thousand One Hundred Forty One only), from the date it was due till the date of release of payment.
- (iv) Award the costs on the O.A. filed.”

2. The brief case of the applicant is that he has gone in for treatment of his wife for Bariatric Surgery at Max Super Speciality Hospital, Saket, New Delhi, in the belief that he can get this done at private hospital without permission. He also acknowledges that the CGHS had advised him to take permission from Safdarjung Hospital, which he failed to do. He submitted that he has made a mistake and he should not be made to suffer the financial loss of Rs.2,66,1414, which he has already been incurred by him. He

further submitted that his daughter has also been recommended by V.M.M.C. & Safdarjung Hospital for getting the same Bariatric Surgery done from “any CGHS approved Hospital” but he could not dare to get the said treatment done for his daughter because of heavy expenditure and non reimbursement of the amount already incurred by him for the treatment of his wife. He further submitted that the Superintending Engineer of his Department had issued him permission on 06.10.2015, after he made a request for the above mentioned.

3. Learned counsel for respondents submitted that they have committed no mistake in this matter, as the applicant did not take prior permission for Bariatric Surgery of his wife, which is not an urgent type of surgery – which could have been undertaken, if advised, as per the CGHS rules by a Government Hospital. The applicant took the treatment from Max Super Speciality Hospital, on his own, without following proper procedure. The respondents pointed out that the Superintending Engineer of the applicant’s Department had no authority to issue any sanction to him and hence, sanction issued without authority is *no nest*. It is further contended that they acted as per rules. Further, ignorance of rule and wrongful issue of permission cannot strengthen the claim of the applicant and enable him or get him the right of getting the undue reimbursement. He therefore, prays that the OA may be dismissed.

4. In view of the fact that the surgery has already been undertaken by the applicant, at best, I direct the respondents, Secretary, Ministry of Health and Family Welfare to consider the claims of the applicant sympathetically and pass speaking and reasoned order on this matter. This matter has never been sent by the respondent Department to the Health Ministry earlier. Accordingly, the OA stands disposed of. No costs.

(Nita Chowdhury)
Member (A)

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