

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

O.A.NO.2680 OF 2015

New Delhi, this the 17th day of November, 2016

CORAM:

HON'BLE SHRI RAJ VIR SHARMA, JUDICIAL MEMBER

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Sh.Sushil Kumar Gupta,
Aged 65 years,
s/o late Dr.Shiv Kumar Gupta,
ex-Medical Superintendent,
Hindu Rao Hospital, Delhi,
Presently R/o A-1/66, Safdarjung Enclave,
New Delhi 110029

(In Person)

Vs.

North Delhi Municipal Corporation, through Commissioner,
S.P.M.Civic Centre,
Jawahar Lal Nehru Marg,

ORDER

Brief facts: Smt. Vimla Gupta, the mother of the applicant was a member of the Municipal Pensioners Health Scheme. She was also having a Mediclaim Insurance from the Oriental Insurance Company. She had obtained treatment from Fortis Flt.Lt.Rajan Dhall Hospital, Vasant Kunj, New Delhi (MCD empanelled hospital) as indoor patient during June 2010 and April 2012, for which the inpatient bills of Rs.5, 07,553/-had been paid by her to the said Hospital. As the applicant's mother had got medical claim amount of Rs.2,00,000/- from the Oriental Insurance Company, she claimed

reimbursement of Rs.3,07,553/- from the respondent. When Rs.2,67,015/- only was reimbursed by the respondent, the applicant's mother, vide her representations dated 13.1.2014 and 21.1.2014, claimed reimbursement of the balance amount of Rs.40,538/-. In the meantime, the applicant's mother passed away on 16.8.2014. As the respondent failed either to reimburse the aforesaid balance amount of Rs.40,538/- or to respond to the aforesaid representations, the applicant filed the present O.A. seeking the following reliefs:

- o(a) Direct the Respondent to immediately pay/reimburse the Applicant the balance amount of approx. Rs.40,500/- remaining towards the indoor medical treatment expenses of the Applicant's mother with interest @ 9% P.A. from 09.01.2014 up to date of payment on furnishing of an Indemnity Bond by the Applicant.
- (b) Direct the Respondent to immediately pay/reimburse the Applicant the entire outdoor medical treatment expenses of the Applicant's mother for the period 06.06.2010 to 16.8.2014 within three months of bills and prescriptions from the applicant on furnishing of an Indemnity Bond by the Applicant.
- (c) Direct the Respondent to pay the Applicant the cost and expenses of this Application.
- (d) Issue any other Order/Direction as deemed just and proper in the facts and circumstances of this case.º

2. In its counter reply, the respondent has stated, *inter alia*, that the medical expenditure of Rs.2,67,015/- has been reimbursed to the applicant's mother in accordance with the CGHS/CSMA Rules, and the balance amount, as claimed by the applicant in the present O.A., is not admissible as per rules.

3. In his rejoinder reply, the applicant has stated, *inter alia*, that despite issuance of Emergency Certificate issued by the Hospital, the Cashless Treatment Slip was not issued by the respondent. As a consequence, the Hospital did not raise the Medical Bills at the CGHS/MCD rate. Therefore, the respondent is liable to reimburse the total amount paid by the applicant's mother to the Hospital.

4. The respondent has filed an additional affidavit along with a calculation sheet showing payment of amounts under different heads made to the applicant as per CGHS rate. It has been reiterated by the respondent that the amount of Rs.40,500/-, as claimed by the applicant in the present O.A., is not admissible as per rules.

5. The applicant has filed a counter affidavit to the respondent's additional affidavit. Along with the said counter affidavit, the applicant has filed copies of his mother's letter dated 4.6.2010 requesting the respondent to renew the I.Card issued to her under the Municipal Pensioner's Health Scheme which was valid up to 16.5.2010, and the emergency certificate issued by the Fortis Hospital on 3.6.2010.

6. I have heard the applicant in person, and Mr.M.S.Reen, the learned counsel appearing for the applicant.

7. It was not the claim of the applicant's mother that the balance amount of Rs.40,538/- was reimbursable to her under the CGHS/CSMA Rules. Her grievance was that despite the Emergency Certificate issued by the Fortis Hospital, the respondent did not issue Cashless Treatment Slip for

her treatment, and as a consequence, the Fortis Hospital refused to charge the MCD package rate for her medical treatment, and forced her to pay the medical bills. Therefore, the respondent is liable to reimburse the said balance amount of Rs.40,538/- in her favour.

8. Thus, it has to be seen as to whether there was any fault on the part of the respondent to issue the Cashless Treatment Slip for treatment of the applicant's mother at the Fortis Hospital. As already noted, the applicant has filed copies of letter dated 4.6.2010 addressed by his mother to the CAMO, CLZ, Balak Ram Hospital, Municipal Corporation of Delhi, Timarpur, Delhi, as well as the emergency certificate issued by the Fortis Hospital on 3.6.2010 in favour of the applicant's mother. The relevant portion of the letter dated 4.6.2010, *ibid*, is reproduced below:

Sub: Renewal of Family Pensioner Health Card and issue of Credit Letter for Cashless Treatment.

I am the widow (Family Pensioner) of late Dr.S.K.Gupta, Ex-Medical Superintendent, Hindu Rao Hospital, Delhi, and Ex-M.H.O., Municipal Corporation of Delhi, Delhi.

After the death of my husband I am getting Family Pension vide letter No.CA/Pen/2096-G/2002/1294 dtd.6.9.2002 (P.P.O.No.2096-G) and am enrolled under the Municipal Pensioner's Health Scheme vide I.Card No.1932 issued on 30.6.2003 which was subsequently renewed upto 16.5.2010.

That I could not get the above Health Card renewed for a further period of one year from 16.5.2010 since I was suddenly hospitalized for emergency medical treatment at Fortis Hospital, Vasant Kunj, New Delhi on 10.5.2010 and am still under medical treatment in the said hospital.

I therefore request your kindself to kindly renew my I.D.Card for a further period of 1 year from 16.5.2010 for which Demand Draft in favour of Commissioner, M.C.D. for Rs.6,000/- is

being duly attached and issue the necessary Credit letter authorizing Cashless treatment from the said hospital.
Thanking you,

Yours sincerely,
Sd/ Vimla Gupta
Smt. Vimla Gupta
W/o late Dr.S.K.Gupta

Encl: 1. Photostat copy of Identity Card No.1932 valid up to 16.5.2010.

2. Demand Drafts of Rs.1,800/- & Rs.4,200/-, totaling Rs.6,000/- in favour of Commissioner, M.C.D. along with 2 completed Option Forms and Notarized Affidavit.

3. Emergency Certificate dt.3.6.2010 of Fortis Hospital, Vasant Kunj, New Delhi.ö

From the above letter dated 4.6.2010, it is clear that the I.Card issued in favour of the applicant's mother was valid up to 16.5.2010, and while making application for renewal of the I.Card for one more year from 16.5.2010, the applicant's mother furnished demand drafts for Rs.1,800/- and Rs.4,200/- in favour of the Commissioner, M.C.D, only on 4.6.2010.

Along with the said letter, the applicant's mother furnished the Emergency Certificate dated 3.6.2010 issued by the Fortis Hospital, Vasant Kunj, New Delhi. By the said letter dated 4.6.2010, the applicant's mother also requested the CAMO, CLZ, Balak Ram Hospital, Municipal Corporation of Delhi, to issue Credit letter authorizing Cashless treatment at the Fortis Hospital. In her representation dated 21/30.7.2014 (Annexure A/1), the applicant's mother stated that she was hospitalized for emergency medical treatment at Fortis Hospital on 10.5.2010, and was treated there as an indoor patient from 10.5.2010 to 6.6.2010, and from 12.6.2010 to 13.6.2010. Thus, it is clear that when the request was made by the applicant's mother to the concerned authority to issue Credit letter authorizing cashless treatment at

the Fortis Hospital, the Medical I.Card was not valid, and the validity of the Card had already expired on 15.5.2010. The applicant has nowhere stated in the pleadings as to on which date the renewed I.Card was received by his mother. In the above view of the matter, the respondent cannot be faulted for not issuing the Credit letter for medical treatment of the applicant's mother as an indoor patient at the Fortis Hospital. This apart, when the reimbursement of the balance amount of Rs.40,538/- was not admissible to the applicant's mother under the Rules, the non-issuance of Credit letter hardly makes the applicant's mother entitle to claim the same.

9. In support of the claim made by him in the O.A., the applicant relied on the decisions of the Hon'ble High Court of Delhi in **Daljit Singh Vs. Govt. of NCT of Delhi & ors**, 2013 (199) DLT 24; and **Union of India and Ors. Vs. M.A.Haque**, 2016(2) SLJ 36.

9.1 In **Daljit Singh Vs. Govt. of NCT of Delhi & ors.** (supra), the petitioner underwent CABG heart operation in the Escorts Heart Institute, New Delhi, after informing his employer. For the treatment and operation of the petitioner, a total amount of Rs.2,02,343/- was charged by the said hospital, but the respondents reimbursed to him Rs.1,01,746/- as per package deal. Referring to a judgment of the learned Single Judge in **Milap Singh Vs. Union of India**, 2004(113) DLT 91, the Hon'ble High Court observed that it is no longer res integra that merely because the Government does not revise the package deal amount under the Medical Attendance Rules from time to time, a person cannot be denied actual medical costs, and there has to

be reimbursement of the actual medical expenses incurred. Accordingly, the Hon'ble High Court directed the respondents to reimburse to petitioner the full expenses for medical treatment.

9.2 **In Union of India & ors Vs. M.A.Haque** (supra), the respondent was referred by Dr.Ram Manohar Lohia Hospital to the Escorts Heart Institute for Angiography and Angioplasty. The Bill by the Escorts Heart Institute was Rs.1,59,412.50, but the petitioners reimbursed to respondent less only at package rates. The Hon'ble High Court held that the Government is responsible to ensure life of citizens under Article 21 of the Constitution of India, and that when the Government has referred an employee for treatment to a speciality hospital, full cost of treatment has to be borne by the Government.

10. Admittedly, the respondent has granted reimbursement of medical expenses at the CGHS rate. Therefore, the respondent cannot be faulted for not allowing the reimbursement of the purported balance claim amount of Rs.40,538/- which is not admissible to the applicant's mother under the rules. It is not the case of the applicant that the full amount of expenditure, as claimed, was not reimbursed to his mother because of non-revision of the CGHS rate. Admittedly, the CAMO, CLZ, Balak Ram Hospital, Municipal Corporation of Delhi, did not refer the applicant's mother to the Fortis Hospital for treatment. Thus, the decisions in **Daljit Singh Vs. Govt. of NCT of Delhi & ors** (supra) and **Union of India and Ors Vs. M.A.Haque** (supra), being distinguishable on facts, are of no help

to the case of the applicant. Furthermore, granting relief claimed by the applicant, vide paragraph 8(a) of the O.A., would amount to directing the respondent to act contrary to rules and breach the provisions of the CGHS.

11. **In State of Punjab & others v. Ram Lubhaya Bagga, (1998) 4 SCC 117**, a three-Judge Bench of the Hon'ble Supreme Court had an occasion to consider the question of change of policy in regard to reimbursement of medical expenses to its employees. Referring to its earlier decisions, their Lordships observed thus:

“No State or any country can have unlimited resources to spend on any of its project. That is why it only approves its projects to the extent it is feasible. The same holds good for providing medical facilities to its citizens including its employees. Provision of facilities cannot be unlimited. It has to be to the extent finance permit. If no scale or rate is fixed, then in case private clinics or hospitals increase their rate to exorbitant scales, the State would be bound to reimburse the same. Hence we come to the conclusion that principle of fixation of rate and scale under this new policy is justified and cannot be held to be violative of Article 21 or Article 47 of the Constitution of India.”

Their Lordships also observed as follows:

“Any State endeavor for giving best possible health facility has direct correlation with finances. Every State for discharging its obligation to provide some projects to its subject requires finances. Article 41 of the Constitution gives recognition to this aspect. Article 41: Right to work, to educate and to public assistance in certain cases: The State shall, within the limits of its

economic capacity and development, make effective provisions for securing the right to work, to education and to public assistance in cases of unemployment, old age sickness and disablement, and in other cases of undeserved want.ø

12. In view of the above decision of the Honøble Supreme Court, I do not find any illegality or irregularity to have been committed by the respondent in reimbursing to the applicantøs mother Rs.2,67,015/- only in accordance with the CGHS/CSMA Rules, and in disallowing reimbursement of Rs.40,538/- which was not admissible under the CGHS/CSMA Rules.

13. When claim for reimbursement of expenses for outdoor medical treatment has not yet been raised either by the applicantøs mother or by the applicant before the respondent, it would be too premature for the applicant to file this O.A. seeking a direction to the respondent to immediately pay/reimburse him the entire outdoor medical treatment expenses of his mother for the period from 6.6.2010 to 16.8.2014 within three months of bills and prescriptions from the applicant on furnishing of an Indemnity Bond. Therefore, the relief claimed by the applicant, vide paragraph 8(b) of the O.A., does not deserve consideration.

14. In light of the above discussions, I hold that the O.A. being devoid of merit is liable to be dismissed. Accordingly, the O.A. is dismissed. No costs.

**(RAJ VIR SHARMA)
JUDICIAL MEMBER**

