

**Central Administrative Tribunal
Principal Bench, New Delhi.**

OA-2027/2016

Reserved on : 03.10.2017.

Pronounced on : 06.10.2017.

Hon'ble Ms. Praveen Mahajan, Member (A)

Sh. R.L. Gupta, 62 years
S/o Sh. Hari Ram Gupta,
Ex-Senior Manager
In Group A, ITPO,
Pragati Maidan, New Delhi.

Resident of 850, Prem Gali,
3-C, Gandhi Nagar,
Delhi-110031.

.... Applicant

(through Sh. H.P. Chakravorty for Sh. P.S. Khare, Advocate)

Versus

Indian Trade Promotion Organisation
(ITPO) through its Chairman-cum-Chief
Managing Director, Pragati Bhawan,
Pragati Maidan,
New Delhi-110001.

..... Respondents

(Sh. Akram Pasha for Sh. R.V. Sinha, Advocate)

ORDER

The applicant has filed the current O.A. on being denied the medical reimbursement by the respondents, by enhancing the ceiling limit upto three times permissible under Rule-17 of India Trade Promotion Organisation (ITPO) Medical Attendance Rules. The applicant states that he retired on 28.02.2014 from the post of Senior

Manager, ITPO. He submits that he incurred an expenditure of Rs. 68,174.73 on medicines and consultation charges on account of treatment being received by him as a heart patient. His request for reimbursement of expenses due to prolonged heart ailment from the empanelled hospital of ITPO was rejected by the respondents without assigning any reason. He further submits that as per the prevailing Rules, Executive Director of ITPO is empowered to enhance the ceiling under Rule-7 upto three times of the normal ceiling in those cases where full evidence supported by a report from an empanelled hospital of ITPO is submitted. Such enhancement can be done in case of prolonged treatment for cancer, TB and heart disease etc. He also submits that he had undergone open heart surgery in Escorts Hospital in 2004, which is an empanelled hospital by the ITPO. He further submits that his claim is genuine and duly supported by all the necessary bills and report etc. He has, therefore, sought the following relief:-

- “(i) to allow the OA and quash the impugned orders No. (R-7)/ITPO/E-III/77 dated 02.05.2014 (Ann.A-1), No. R-7/ITPO/E-III/1977 dated 22.01.2015 (Ann. A-2), No. R-7/ITPO/E-III/1977 dated 29.05.2015 (Ann.A-3), No. R-7/ITPO/E-III/1977 dated 27.10.2015 (Ann. A-5) & No. R-7/ITPO/E-III/1977 dated 15.03.2016 (wrongly typed as 2015) (Ann. A-6) with all consequential benefits and consequently direct the Respondents to grant and pay the Medical Reimbursement to the tune of Rs.68,175/- with interest @18% p.a. compounded yearly w.e.f. 01.03.2014 till the date of actual payment; and
- (ii) to pass any other or further order or direction which the Hon'ble Tribunal deem fit and proper may also be

granted to the petitioner with the cost of present litigation upto Rs. 25,000/-."

2. In the counter, the respondents state that the O.A. is not maintainable since the power vested in the Executive Director of the organisation to enhance the ceiling three times that of the normal ceiling is discretionary in nature and cannot be claimed as a matter of right. There is also a rider that in case the employee has availed 45% of perks, such enhancement is not available. It is submitted that in the case of the applicant the ceiling of 45% of perks had already been exhausted. The same was conveyed to the applicant vide letter dated 05.08.2015. He was informed that allowances for the financial year 2013-14 had been availed by him and there was no balance amount payable to the applicant on the date of his superannuation. The requests made by the applicant from time to time were duly considered but not acceded to by the competent authority under intimation to him. The same were rejected at the level of Chairman-cum-Managing Directors of the respondents' organisation, who did not find merit in the request of the applicant.

3. During the course of hearing, the arguments advanced in the OA and the counter were reiterated by both the counsels. Learned counsel for the applicant stated that earlier respondents had exercised this discretion in his favour vide their order Nos. (R-7)/TFA/E-I/77 dated 24.11.2009, (R-7) ITPO/E.III/77 dated 02.02.2011, (R-

7)ITPO/E.III/77 dated 27.12.2011 and (R-7)/ITPO/E.III/77 dated 14.03.2013. He submitted that it is not understood why his genuine medical claim has now been denied to him for the financial year 2013-14.

3.1 Per contra, learned counsel for the respondents submitted that the medical claim of the applicant was submitted post retirement and hence is not admissible. The earlier claims were sanctioned when he was a regular employee with the respondents' organisation. He also emphasized that vide letter dated 05.08.2015 (Annexure A-4) the applicant was duly intimated that 45% perks for the financial year 2013-14 had already been availed of by him and no balance amount was payable on the date of his superannuation. As such, his case for enhancement of medical ceiling has correctly been rejected by the respondents.

3.2 On going through the facts of the case, I find that Rule-17 of the Revised Medical Rules 1982/94/96 dated 26.12.1996 of ITPO stipulate that:-

"The MD/CMD is empowered to relax or modify the procedural rules where he/she is satisfied that the prescribed procedure could not be followed by the employee for reasons beyond his/her control.

In case of prolonged treatment for Cancer, TB, Heart diseases, Asthma, Arthritis etc. M/CMD is empowered to enhance ceiling under Rule-7 upto 3 times of the normal ceiling provided that full evidence/supported by a report from AIIMS/Distt. Medical Officer is given by the official."

3.3 A bare reading of the Rule shows that the claim of medical enhancement can be relaxed by the competent authority in case of the specified illness like Cancer, TB, Heart diseases, Asthma, Arthritis etc. The logical inference being that each case would have to be considered on merit, and, cannot be claimed as a matter of right. However, medical claim of the applicant pertains to the time when he was a regular employee with the respondents and needs to be addressed by the respondents by way of a speaking order, which does not seem to have been done. I, therefore, direct the respondents to consider the claim of the applicant and re-examine the same for grant of enhancement of his medical claim in this background. This exercise may be carried out within three months from the date of receipt of a certified copy of this order. The O.A. is accordingly dismissed. No costs.

(Praveen Mahajan)
Member (A)

/Vinita/