

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

**OA-2948/2015
MA-3514/2015
MA-4270/2015**

Reserved on : 10.05.2016.

Pronounced on : 12.05.2016.

Hon'ble Mr. Shekhar Agarwal, Member (A)

Sh. T. Surya Prakash, 44 years
Section Officer,
S/o late Sh. T.G.K. Murthy,
NVS, B-15, Sector-62,
Institutional Area,
Noida-201309, UP.

.... Applicant

(Applicant in person)

Versus

Navodaya Vidyalaya Samiti through
Its Commissioner,
M/o Human Resources Development,
B-15, Institutional Area,
Sector-62, Noida,
Distt. Gautam Budh Nagar,
Uttar Pradesh, 201309.

.... Respondents

(through Sh. S. Rajappa, Advocate)

ORDER

The applicant was working as a Section Officer in Navodaya Vidyalaya Samiti (NVS). On 22.05.2013, he was deputed to visit Ministry of Human Resources Development in Shastri Bhavan. On his way to the Ministry, he met with an accident in which his right elbow was broken into many pieces. According to the applicant, with the help of a passerby, he informed about the accident to Deputy Commissioner (Administration), who rushed to the spot and got him admitted to the Fortis Hospital in Sector-62, Noida. The respondents also sanctioned medical advance of Rs. 1,36,115/- as per estimate given by

Fortis Hospital considering the emergency situation. After treatment, the applicant was discharged and the total bill for his treatment at Fortis Hospital came to Rs. 1,80,019/-. The grievance of the applicant is that when he submitted this bill for payment, the respondents restricted his claim to Rs. 76,208/- as per CGHS rates. The applicant represented to the Commissioner on 03.04.2014 and 19.03.2015 to reconsider his case and grant full reimbursement. However, his representations were turned down and hence he has filed this O.A. seeking the following relief:-

"In view of the facts mentioned in paras 4 and 5 above, applicant prays for quashing the impugned decision of Commissioner, NVS (respondents) communicated to the applicant vide order dated 09.06.2015 and for passing necessary directions to the respondent to allow full medical reimbursement of Rs.1,80,019 on actual expenditure basis and repay the balance amount of Rs.1,03,811/- along with 12% interest from the date of submission of claim by the applicant along with a compensation of Rs. 2,00,000/- (Rupees two lakhs) for the mental and physical agony suffered by the applicant as a result of accident which occurred when he was on official duty and for humiliation of the applicant due to the inhuman attitude of the respondent by which the full amount of medical reimbursement was denied."

2. The contention of the applicant is that it cannot be disputed that he had to be admitted in Fortis Hospital in an emergency situation, which arose when he was on duty. He has further submitted that NVS employees were governed by Central Services (Medical Attendance) Rules in which there was no provision for restricting the claim to CGHS rates. His further contention is that the department was not providing any CGHS card to its employees, yet the treatment was being restricted to CGHS rates even though no hospital is prepared to extend treatment to the employees at CGHS rates without CGHS card.

3. In their reply, the respondents have stated that while it was true that the applicant was initially admitted to Fortis Hospital for treatment, it was his own

conscious decision to continue the treatment in that hospital even when emergency situation was over. They have further submitted that an advance of Rs. 1,36,115/- was indeed sanctioned to the applicant. But this did not imply that this was final settlement of the claim. In fact, the advance was to be adjusted against the final claim after completion of the treatment. They have also stated that the claim of the applicant was restricted to CGHS rates as was being done for all employees and no different yardstick or unjust treatment has been meted out to the applicant. During the course of the arguments, learned counsel for the respondents submitted that the applicant had himself permitted the respondents to make recovery of the excess amount paid to him after settling his claim at CGHS rates. In this regard, he has produced copies of letters dated 07.03.2014, 14.03.2014 and 19.03.2014 of the applicant, which are available at pages 68-70 of the paper-book. Learned counsel for the respondents argued that the applicant was now estopped from raising claim for full payment of his bill after he had himself agreed to permit recovery of the excess amount.

4. I have heard both sides and have perused the material placed on record. The applicant has relied on the judgment in the case of **E.V. Kumar Vs. UOI** (Writ Petition No. 10392/1996) dated 28.07.2013 in which Hon'ble High Court of Madras allowed full reimbursement to the petitioner therein under CS (Medical Attendance) Rules. He has also relied on the judgment of Hon'ble High Court of Karnataka dated 13.06.2013 in the case of **Regional P.F. Commissioner Vs. CK Nagendra Prasad** (WP No. 8995/2013) in which judgment of Bangalore Bench of this Tribunal in OA-65/2012 on the same issue was upheld. As far as permitting recovery himself, the applicant argued that he had indeed given those applications in disgust when the respondents were repeatedly denying his claim.

5. Considering the facts and circumstances of the case, I am of the opinion that the respondents have been unduly harsh to the applicant. They have not denied the circumstances under which the applicant was admitted to Fortis Hospital by one of their own officers. Their contention that it was a practice in NVS to restrict medical claims to CGHS rates cannot be accepted as that can apply only in normal cases and not in cases of emergency. This is because Appendix-VIII of CS (Medical Attendance) Rules dealing with emergency cases, reads as follows:-

- “(1) *Circumstances to justify treatment in private medical institution.-* In emergent cases involving accidents, serious nature of disease, etc., the person/persons on the spot may use their discretion for taking the patient for treatment in a private hospital in case no Government or recognized hospital is available nearer than the private hospital. The Controlling Authority/Department will decide on the merits of the case whether it was a case of real emergency necessitating admission to a private institution. If the Controlling Authorities/Departments have any doubt, they may make a reference to the Director-General of Health Services for opinion
- (2) *Subsequent transfer to Government/recognized hospital.-* A point has been raised whether a patient can be transferred from the private hospital to a Government/recognized hospital after the emergency is over for obtaining further treatment. It is clarified that the patient while he is in a private hospital should act according to the advice of the hospital authorities. He should get his discharge from the hospital only when the hospital authorities discharge him.”

5.1 Since it is not denied that the applicant was admitted to Fortis Hospital under the circumstances mentioned above by him, the respondents were required to examine the case of the applicant in the light of the provisions of CS (Medical Attendance) Rules quoted above and come to a conclusion whether the circumstances existing in this case justified emergency treatment in a private medical hospital. They were also required to see whether the advice of the hospital authorities was that the applicant could be shifted to a government after initial emergency treatment. From the orders passed by the respondents restricting his claim to CGHS rates, it appears that the case of the applicant has

been dealt with as if it was a normal case of any employee of the Samiti and not as an emergency case under the above provision. Therefore, the orders dated 11.09.2014 and 09.06.2015 passed by the respondents cannot be sustained.

6. I, therefore, allow this O.A. and quash the impugned order dated 09.06.2015 and I.D. Note dated 11.09.2014. I further direct the respondents to reconsider the claim of the applicant in the light of the observations made above within a period of 60 days from the date of receipt of a copy of this order. No costs.

(Shekhar Agarwal)
Member (A)

/Vinita/