

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

OA 4328/2013

Order reserved on: 8.02.2016
Pronounced on: 16.02.2016

Hon'ble Mr. Justice Syed Rafat Alam, Chairman
Hon'ble Mr. P.K. Basu, Member (A)

Shri Ramdhan Singh S/o Jai Pal Singh
Retired L.D.C.
Delhi Jal Board
288, Shiv Mandir,
Wazirabad, New Delhi ... Applicant

(Through Ms. Shelly Jain, Advocate)

Versus

Delhi Jal Board
Through Chief Executive Officer,
Govt. of NCT of Delhi
Varunalaya Bhawan,
Jhandewalan, New Delhi-110005 ... Respondents

(Through Ms. Sakshi Popli, Advocate)

ORDER

Mr. P.K. Basu, Member (A)

The applicant worked as Lower Division Clerk (LDC) and retired on 31.10.2013. In January 2013, the applicant was diagnosed with Subdural Hematoma. He was admitted in Indraprastha Apollo Hospital, Sarita Vihar, New Delhi on 11.01.2013 and discharged on 17.01.2013 after being operated for evacuation of Subacute Subdural Hematoma. He incurred an expenditure of Rs.3,65,421 on his medical treatment. He

submitted his claim for Rs.3.65 lacs but was reimbursed only Rs.85,000/-. The remaining amount of Rs.2,80,000/- was not paid to the applicant by the Delhi Jal Board (DJB). Aggrieved by this, the applicant has filed this OA seeking direction from this Tribunal to the respondent-DJB to release the remaining reimbursement of medical bill amount of Rs.2.80 lacs along with interest @ 15% per annum.

2. The applicant's argument is that he is covered under CGHS and Central Services (Medical Attendance) Rules 1944. It is stated that Indraprastha Apollo Hospital is a hospital on the panel of DJB where DJB employees can get themselves treated.

3. The applicant also points out that the Accounts Section of the DJB scrutinized the medical bill submitted by him and after verifying the same, as per CGHS rates under various heads, had recommended Rs.2,62,311/- for reimbursement to the Medical Board after making necessary deductions. However, the Medical Board reduced it to Rs.85,000/-.

4. The applicant placed reliance on the order of this Tribunal in OA 2954/2012, **V.B. Jain Vs. Chief Executive Officer, Delhi Jal Board**. In the said OA, the applicant was a retired Chief Engineer from DJB. His wife was diagnosed with malignant cancer, treated in Indraprastha Apollo Hospital, Rockland Hospital and Pushpanjali Corslay Hospital and she finally succumbed to the disease and died on 24.11.2009. In connection with the said treatment, the applicant therein incurred a total medical expenditure of Rs.12,93,036/-. In this

case, there was insurance cover also. The Insurance Company reimbursed Rs.6,83,479/-. We quote below para 9 of the order of this Tribunal, which summarizes the general principles laid down by the Hon'ble Apex Court for reimbursement of medical expenses incurred by government servants, who undergo treatment in private hospitals:

"9. In a catena of cases various courts have laid down the following general principles for reimbursement of medical expenses incurred by government servants, who undergo treatment in private hospitals:

- (i) It is now settled law that right to health is integral to right to life.
- (ii) A welfare State like India is bound to provide the basic requirements of its citizens. Health care facility is an integral part of the same and the CGHS has been established for the benefit of the Central Government employees. Even retired Government employees should not be left out of the purview of medical care.
- (iii) If the Government servant has suffered an ailment which requires treatment at a specialized approved hospital and, on reference, the Government servant has undergone such treatment therein, it is the duty of the State to bear the expenditure incurred by the Government Servant. Expenditure thus incurred requires to be reimbursed by the State to the employee.
- (iv) The mismatch between the rates charged by the approved hospitals and the rates approved by the Government works always to the disadvantage of the patient. What was fair and reasonable in 1996 or 1999 or 2001, when the rates apparently had some nexus with the then (current) rates has ceased to be so.

- (v) The cost of medical treatment has been rising over a period of time and Government cannot deny the actual reimbursement from a Hospital recognized by it for treatment on the basis of applying the rates as per the orders issued previously. It would, therefore, be appropriate to update the approved rates on an annual or, at least, biennial basis.
- (vi) It is not the duty of the citizen to ensure that recognized hospitals do not charge in excess of the package rates.
- (vii) The Government was obliged to grant ex post facto sanction in case an employee requires a speciality treatment and there is a nature of emergency involved. In such a situation, treatment in a non-recognized hospital and non-observance of prescribed procedure and incurring expenditure in excess of CGHS package/approved rates have to be condoned.

[**K.P. Singh v. Union of India & Ors.**, 2001 (10) SCC 167; **State of Punjab & Ors. v. Mohinder Singh Chawla etc.**, JT 1997 (1) SC 416; **J.C. Sindhwani v. Union of India & Anr.**, 2005 (124) DLT 513; **J.K. Saxena v. Govt. of NCT of Delhi**, WP(C) No. 5015/2003, decided on 16.12.2004; **Prithvi Nath Chopra v. Union of India & Anr.**, 2004 (111) DLT 190; **V.K. Gupta v. Union of India & Anr.**, 2002 (97) DLT 337; **M.G. Mahindru v. Union of India & Anr.**, 2001 (92) DLT 59; **Narendra Pal Singh v. Union of India & Ors.**, 1999 (79) DLT 358; **L.P. Sharma v. Union of India & Ors.**, 2004 (2) ATJ 492; **Sh. S.R. Jha v. Union of India & Ors.**, 2003 (2) ATJ 168; and **Shri Bhagwan Singh v. Union of India & Ors.**, 2002 (1) ATJ 226.]”

The OA was allowed and the respondents directed to reimburse the balance amount.

5. The applicant further relied on the judgment of the Hon'ble High Court of Delhi in WP (C) No.13435-37/2000, **Govt. of NCT of Delhi and another Vs. Dr. Prem Prakash.**

6. The respondents claim that according to OM No.20 dated 4.06.2007 of the DJB, in case an employee undertakes treatment in an empanelled hospital, medical reimbursement will be made only on the basis of rate list of CGHS. According to CGHS Delhi rates, the rate prescribed for Craniotomy and Evacuation of Haematoma Subdural is Rs.85,000/- for Super Speciality Hospital (Annexure R-1) and, therefore, the applicant has been allowed reimbursement of Rs.85,000/- only.

7. Regarding recommendations of Accounts Section, it is stated that the Accounts Section was not aware of the fact that CGHS rate list for the surgery procedure was a complete package and included all the procedures i.e. investigation charges, consultation charges, procedural charges, bed charge and, therefore, considering the rates under various heads, it recommended Rs.2.62 lacs for reimbursement which was higher than what was prescribed for subdural hematoma i.e. Rs.85,000/-.

8. The respondents further state that because Apollo Hospital had charged exorbitantly higher rate as compared to the prescribed rates, the DJB had decided to de-empanel the said

hospital from the list of recognized hospitals for its employees and a letter dated 19.03.2014 had been issued to the Apollo Hospital bringing to their notice their practice and asking them to return the excess money charged.

9. The learned counsel for the respondents further stated that from the bills submitted by the applicant, it would become clear that nowhere did he mention when he got admitted in the hospital that he was an employee of the DJB so that the hospital could have charged as per CGHS rates.

10. We have heard the learned counsel for the parties and gone through the pleadings available on record.

11. It is not denied that the applicant was suffering from subdural hematoma and had to undergo operation for that. It is also not denied that he incurred the medical expenditure of Rs.3,65,421. The issue is that the Apollo Hospital charged the rate which was much higher than the rate prescribed for the treatment. In fact, it would appear from the papers submitted by the applicant and also, as admitted by the respondents, that the Accounts Branch of the respondent-DJB also recommended reimbursement of Rs.2.62 lacs by taking individual head wise expenditure at CGHS rates. The respondents do say that the Accounts Branch had made a mistake because they were not aware about the fact that CGHS rate list for surgery procedure was a complete package and, therefore, the Medical Board only approved an amount of Rs.85,000/-.

12. It is a fact that the applicant is a low paid employee of the DJB and when a person is suffering from large Subdural Hematoma, he would not be in a proper state of mind to ensure that the hospital documents mention him as a DJB employee or not. He was convinced that he was going to DJB recognized hospital and would get full reimbursement. Perhaps the hospital did a mistake by making head wise calculation just as the Accounts Branch did. However, to deny the applicant the amount spent by him on his treatment would not be justified. Moreover in V.B. Jain (supra), this Tribunal in a very similar case regarding an employee of the same respondent-DJB, after relying on various judgments, had allowed reimbursement of actual expenditure. We are, therefore, of the opinion that this is a fit case where the OA deserves to be allowed.

13. In view of above discussion, we allow the OA with a direction to the respondents to release the remaining amount of the medical bill as cleared by its own accounts branch taking admissible amounts head-wise i.e. Rs.2,62,311/-. There would, however, be no order as to costs as well as interest. The respondents shall make the payment of the balance amount of Rs.2,62,311/- within a period of 15 days from the receipt of a copy of this order.

(P.K. Basu)
Member (A)

(Syed Rafat Alam)
Chairman

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