

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

O.A. No.3400/2018

M.A. No.3825/2018

Monday, this the 17th day of September 2018

Hon'ble Mr. K.N. Shrivastava, Member (A)

Surendra Kumar Gaur
Aged about 63 years, Group C
s/o Sh. Nand Kishore Gaur
retired Chief Inspector of Tickets
Northern Railway, New Delhi Station
r/o H.No.C-15, Shivlok CGHS Society
Plot No.6
Sector 6, Dwarka, New Delhi – 110 075

..Applicant

(Mr. Gaya Prasad, Advocate)

Versus

1. Union of India through
General Manager
Northern Railway, Head Quarter Office
Baroda House, New Delhi
2. Medical Director
Northern Railway
Central Hospital
Vasant Lane, New Delhi
3. Chief Medical Director
Northern Railway, Head Quarter office
Baroda House, New Delhi

..Respondents

O R D E R (ORAL)

M.A. No.3825/2018

M.A. seeking exemption from filing translation and typed copies of the dim/hand written documents is allowed.

O.A. No.3400/2018

The applicant, at the relevant point of time, was working as Chief Ticket Inspector (CTI) in the Northern Railway. He retired from service on 30.06.2015 on attaining the age of superannuation. His wife was suffering with chronic liver disease (CLD). It is stated that in an emergency condition, she was admitted at a nearby private hospital, i.e., Ayushman Hospital, Dwarka, New Delhi on 09.09.2012. She was discharged by the hospital on 14.09.2012. A copy of discharge certificate is at Annexure A-4. The hospital presented a bill of ₹95,118/- to the applicant (Annexure A-5). However, the respondents have reimbursed only ₹59,559/-, and that, too, on 16.02.2017. It is stated that Northern Railway Central Hospital did not have the facility for the treatment of CLD and for this reason as well as due to emergency the applicant took his wife to a private hospital.

2. The applicant, through the medium of this O.A., has sought a direction to the respondents for reimbursing the remaining amount as well. The applicant has submitted Annexure A-7 representation dated 17.04.2017, which is followed by Annexure A-1 reminder dated 16.11.2017 to respondent No.3, namely, Chief Medical Director, Northern Railway, Baroda House, New Delhi. The said representation has not been decided by respondent No.3 as yet.

3. To substantiate his claim, the applicant has placed reliance on the judgment of Hon'ble Supreme Court in **Shiva Kant Jha v. Union of India** (Writ Petition (C) No.694/2015) decided on 13.04.2018, wherein it has been held as under:-

“14) This is hardly a satisfactory state of affairs. The relevant authorities are required to be more responsive and cannot in a mechanical manner deprive an employee of his legitimate reimbursement. The Central Government Health Scheme (CGHS) was propounded with a purpose of providing health facility scheme to the central government employees so that they are not left without medical care after retirement. It was in furtherance of the object of a welfare State, which must provide for such medical care that the scheme was brought in force. In the facts of the present case, it cannot be denied that the writ petitioner was admitted in the above said hospitals in emergency conditions. Moreover, the law does not require that prior permission has to be taken in such situation where the survival of the person is the prime consideration. The doctors did his operation and had implanted CRT-D device and have done so as one essential and timely. Though it is the claim of the respondent-State that the rates were exorbitant whereas the rates charged for such facility shall be only at the CGHS rates and that too after following a proper procedure given in the Circulars issued on time to time by the concerned Ministry, it also cannot be denied that the petitioner was taken to hospital under emergency conditions for survival of his life which requirement was above the sanctions and treatment in empanelled hospitals.

15) In the present view of the matter, we are of the considered opinion that the CGHS is responsible for taking care of healthcare needs and well being of the central government employees and pensioners. In the facts and circumstances of the case, we are of opinion that the treatment of the petitioner in non-empanelled hospital was genuine because there was no option left with him at the relevant time. We, therefore, direct the respondent-State to pay the balance amount of Rs. 4,99,555/- to the writ petitioner.”

4. Considering the nature of relief claimed and also taking into account the fact that the applicant's Annexure A-7 representation dated 17.04.2017, followed by Annexure A-1 reminder dated 16.11.2017, has not been decided, I dispose of this O.A. in the following terms:-

a) The respondent No.3 is directed to decide Annexure A-7 representation of the applicant within a period of eight weeks from the date of receipt of a copy of this order, by passing a reasoned and speaking order, under intimation to the applicant. While doing so, the respondent No.3 shall keep in

view the ratio of law laid down by Hon'ble Apex Court in Shiva Kant Jha's case (supra).

b) The applicant shall have liberty to take recourse to appropriate remedy, as available to him under law, in case he remains dissatisfied with the order to be passed by respondent No.3 on his representation.

There shall be no order as to costs.

**(K.N. Shrivastava)
Member (A)**

September 17, 2018
/sunil/