

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

Original Application No.180/00530/2017

Wednesday, this the 19th day of September, 2018

CORAM:

Hon'ble Mr. E.K. Bharat Bhushan, Administrative Member

M.B. Viswanathan Nair,
S/o. Late V. Balakrishnan Nair, Aged 53 years,
Postal Assistant, Kerala Circle Stamp Depot,
Kadavanthara, Cochin,
Residing at Manakudiyil House, Vadampady P.O.,
Puthencruz, Ernakulam – 682 308. **Applicant**

(By Advocate – Mrs. Rekha Vasudevan)

V e r s u s

- 1 Union of India,
Represented by the Secretary to Government of India,
Ministry of Communications & IT, Department of Posts,
New Delhi – 110 001.
- 2 The Chief Post Master General,
Department of Posts, Kerala Circle,
Thiruvananthapuram – 695 033.
- 3 The Director of Accounts (Postal),
Kerala Circle, IV Floor, GPO Complex,
Thiruvananthapuram – 695 001.
- 4 The Post Master General,
Department of Posts, Central Region,
Cochin – 20.
- 5 The Senior Superintendent of Post Offices,
Ernakulam Postal Division,
Cochin – 682 011. **Respondents**

(By Advocate – Mr. C.P. Ravikumar, ACGSC)

This Original Application having been heard on 14.09.2018, the
Tribunal on 19.09.2018 delivered the following:

ORDER

Per: E.K. Bharat Bhushan, Administrative Member

1. OA No. 180/530/2017 is filed by Shri. M.B. Viswanathan Nair, Postal Assistant, Kerala Circle Stamp Depot, aggrieved by the inaction on the part of the respondents in disbursing him the medical reimbursement of entire expenses incurred for the Deceased Donor Renal Transplantation of his wife, Smt. K.S. Beena. Against a medical bill amount of Rs. 8,21,966/-, the applicant has been reimbursed only Rs. 1,43,000/- with the balance amount of Rs. 6,78,966/- disallowed.

2. The reliefs sought in the OA are as follows:

- a. Quash Annexure A6 letter issued by the 2nd Respondent.
- b. Declare that the applicant herein is fully entitled to be reimbursed the entire amount of medical expenses sustained by him for the Renal Transplantation of his wife, Smt. K.S. Beena.
- c. Direct the respondents to sanction and disburse the entire medical expenses incurred by the applicant for the Renal Transplantation of his wife Smt. K. S. Beena at Amrita Institute of Medical Science & Research Centre, Edappally, Kochi, as per the medical bills submitted by him.
- d. To grant such other reliefs as may be prayed for and the Court may deem fit to grant, and
- e. Grant the cost of this Original Application.

3. The facts of the case in brief are as follows:

The applicant's wife, a kidney patient, was taken to Amrita Institute of Medical Sciences & Research Centre, Edappally on 22.02.2013 on account of renal failure. She was advised Deceased Donor Renal Transplantation and underwent the process between 24.12.2015 and 25.01.2016. After the discharge of patient, the applicant submitted all documents including medical

bills claiming refund of medical expenses incurred in connection with the treatment. A true copy of the application dated 22.02.2016 is at Annexure A3. A medical advance of Rs. 15,000/- was sanctioned to the applicant when the medical bills were approved. Then, as per Annexure A6, impugned order, the 2nd Respondent informed the applicant that his entire claim was limited to Rs. 1,43,000/-.

4. It is maintained in the OA that the Ministry of Health and Family Welfare had accorded sanction to the Central Government employees and their dependant family members for undertaking medical treatment from Amrita Institute of Medical Science & Research Centre, Edappally, Kochi for the procedures for which the hospital is recognized by the State Government of Kerala for its employees. Annexure A7 and Annexure A8 are relevant in this regard. Further, it is submitted that original medical bills for the full expenditure of Rs. 8,21,966/- was submitted by the applicant. The applicant calls to his assistance the decisions rendered by the Hon'ble Supreme Court and Hon'ble High Court of Delhi in TA No. 20/2013 by which the applicant is to be reimbursed the entire medical expenses incurred by him. A copy of the final order in TA No. 20/2013 of the Principal Bench of this Tribunal is at Annexure A10.

5. As grounds, the applicant maintains that there was no reason to restrict the amount for reimbursement to Rs. 1,43,000/- as against actual bills of Rs. 8,21,966/-. As per the decision of the Supreme Court in ***State of Punjab and others v. Mohinder sing Chawla*** (JT 1997 (1) SC 4160), it is

the constitutional obligation of the Government to provide health facilities to its employees and any expenditure thus, incurred requires to be reimbursed by the State. The same view is taken in *Surjit Singh v. State of Punjab* (AIR 2006 SC 1388) case. So also in *Narendar Pal Singh v. Union of India and others* (1998 Lab IC 1861) had allowed full reimbursement of the claim.

6. As per Annexure A7 and Annexure A8, there is no ambiguity about the status of Amrita Institute of Medical Sciences & Research Centre, Edappally, Kochi as a recognized hospital for Renal Transplantation for the Central Government employees and their dependants and there can be no dispute from the side of the respondents in this regard.

7. On behalf of the respondents, a reply statement has been filed, wherein it is maintained that Central Government employees and the members of their family are permitted to avail medical facilities in any of the hospitals recognized by the State Government subject to the condition that they will be reimbursed the medical expenditure at the rates fixed by the Government under the CGHS Rules/CS(MA) Rules, 1944 or the actual expenditure incurred, whichever is less. The approved package for the treatment as per CGHS rates is only Rs. 1,43,000/-, which has been sanctioned.

8. In the reply statement, it is submitted that “all the supporting medical bills were issued in the name of his wife. The applicant had not claimed any expense under the head 'donors expenses'”. Respondents have

annexed two Annexures. In Annexure R2, there is a copy of the office order issued by the Additional Director, CGHS, Trivandrum stating that the empanelment of private hospitals mentioned therein does not include Amrita Institute of Medical Sciences and Research Centre, Edappally and the date of issue of the order is 17.11.2014.

9. Heard Smt. Rekha Vasudevan, learned counsel for the applicant and Shri. C.P. Ravikumar, ACGSC, learned counsel for the respondents. Smt. Rekha Vasudevan maintained that there is absolutely no justification for having restricted the sanction to a part of the claim made. Citing the judgment in OP(CAT) No. 167/2017 she drew this Tribunal's attention to the judgment, which held as following:-

“13. When treatment is afforded to those who are entitled to get reimbursement from the empanelled hospitals, no restriction can be imposed by effecting part payments under CS (MA) Rules in the light of the decision of the Supreme Court in a similar matter, which has become final as per Ext. R1(C) dated 29.06.2016.

14. More importantly, Rule 6(1)(2) makes it clear that 'any amount' paid by the Government Servant entitled under Rule (1) is eligible for reimbursement subject to the conditions enumerated therein. So also proviso to Rule 6 of CS(MA) Rules says that, only if the controlling officer is not satisfied with the genuineness on facts and circumstances of the case, that too after affording an opportunity of being heard could deny the claim. Effecting part payment of the claim itself is a ground to presume that the genuineness of claim is not in dispute. No ceiling limit is also prescribed. The materials produced indicate that when there is no doubt regarding the genuineness of bills submitted for reimbursement, denial of a portion of the amount claimed asserting that there was deviation to the relevant Rules is quite unjustifiable and illegal.”

10. She argued that it was inappropriate on the part of the respondents to state in the reply statement that the bills submitted were not in the name of the applicant. The patient was the applicant's wife and naturally supporting medical bills were issued in her name. Also the fact that “donors

expenses” being not claimed is not a bar as actually the case was one of the Deceased Donor Renal Transplantation and no donors expenses were incurred as the donor was already diseased.

11. Shri. C.P. Ravikumar, learned counsel for the respondents had only a submission that all bills in original were not available to the respondents but it is found that this argument is not valid as the detailed description at page 3 of the reply statement belies the claim made by the respondents' counsel. The issue dealt with is clearly covered by the judgment in OP (CAT) No. 167/2017 of the Hon'ble High Court of Kerala. The hospital in question, Amrita Institute of Medical Sciences and Research Centre, Edappally, is included in the panel as per Annexure A7 OM. The treatment for renal failure is included in the proceedings of the Kerala Government, which is at Annexure A8. Besides, the orders of the Principal Bench of this Tribunal in TA No. 20/2013, which is at Annexure A10, is also clear and unequivocal that no restriction is to be imposed and the amount claimed is to be reimbursed in full to the applicant therein. Based on the above, the OA succeeds. The claim made to the full extent of the original bills submitted is to be sanctioned and disbursed within one month of receipt of copy of this order. Respondents will act accordingly. No costs.

(E.K.BHARAT BHUSHAN)
ADMINISTRATIVE MEMBER

List of Annexures of the Applicant

Annexure A-1 - True copy of the discharge summary issued by the Amrita Institute of Medical Sciences and Research Centre.

Annexure A-2 - True copy of the Memo No. A&P/7-714/05 dated 28.12.2015 issued by the 4th Respondent.

Annexure A-3 - True copy of the application dated 20.02.2016 submitted by the applicant.

Annexure A-4 - True copy of the representation dated 29.11.2016 submitted by the applicant to the 2nd Respondent.

Annexure A-5 - True copy of the letter No. 342/PAIII/E.K.M./2016-17 dated 03.02.2017 addressed by the 3rd Respondent to the 5th Respondent.

Annexure A-6 - True copy of the letter No. AP/13-479/17 dated 25.04.2017 issued by the 2nd Respondent.

Annexure A-7 - True copy of the O.M. F. No. S. 14021/10/1999-MS dated 01.11.2007 issued by the Ministry of Health and Family Welfare.

Annexure A-8 - True copy of the Circular No. 24263/G2/2012/H&FWD dated 11.07.2012 issued by the Department of Health and Family Welfare, Government of Kerala.

Annexure A-9 - True copy of the letter No. E/Mr/Misc dated 09.02.2017 issued by the 5th Respondent.

Annexure A-10 - True copy of the final order dated 15.09.2015 in T.A. No. 20/2013 of the Principal Bench of this Hon'ble Tribunal.

List of Annexures of the Respondents

Annexure R-1 - True copy of G.I.M.H.M.F. No. S.14021/06/2005-MS dated 04.01.2007.

Annexure R-2 - True copy of Order No. E-33/CGHS/TVM/2014/2994 dated 17.11.2014.

-XXXXXXXXXXXXXXXXXXXX-