

.1.

**CENTRAL ADMINISTRATIVE TRIBUNAL,
ERNAKULAM BENCH**

T.A. No.180/00002/2017

Monday this the 5th day of November, 2018

C O R A M :

HON'BLE MR.ASHISH KALIAJUDICIAL MEMBER

K.Sivanandan,
Junior Technical Assistant (ST-III),
Centre for Materials for Electronics Technology [C-MET],
Athani P.O., Thrissur -680 771.
Residing at Kalathil House,
Near G.H.S.S., Manakara P.O.,
Palakkad 678 614.Applicant

(By Advocate – Ms.Priyanka for Mr.Millu Dandapani))

V e r s u s

1. The Union of India
Represented by the Secretary to Government,
Department of Information Technology,
Ministry of Communication & Information Technology,
Electronics Niketan, 6, CGO Complex,
New Delhi – 110 001.
2. The Executive Director,
Centre for Materials for Electronics Technology [C-MET],
Panchavati, Off: Pashan Road,
Pune 411 008.
3. The Director [Acting],
Centre for Materials for Electronics Technology [C-MET],
Shoranur Road, Mulankunnathukavu P.O.,
Athani P.O., Thrissur,
4. The Registrar,
Centre for Materials for Electronics Technology [C-MET],
Panchavati, Off: Pashan Road,
Pune 411 008.Respondents

(By Advocate – Shri Sudhi Vasudevan Sr. for Respondents-2 to4)

This Application having been heard on 29th October 2018, the Tribunal on 5th November, 2018 delivered the following :

ORDER

Per : Mr.ASHISH KALIA, JUDICIAL MEMBER

The applicant aggrieved by non-disposal of medical reimbursement claims in respect of his mother's treatment who died of cancer after prolonged treatment for an amount of Rs.3,25,290/-. The respondents paid Rs.2,41,917/-, though there was a direction to pay actuals by the Hon'ble High Court of Kerala in OP.No.2908/2001. The applicant had also approached the Hon'ble High Court for the balance amount in W.P.(c) nO.23955/2003 which came to be disposed of by the Hon'ble High Court with a direction to consider the claim for the said balance amount. The same was rejected by the Centre for Materials for Electronics Technology [C-MET], Thrissur without adverting to any Rule and the same has been challenged before the first respondent being the Head of the Department. Despite the lapse of two months, the Respondent-1 has not considered the Appeal. The applicant has also filed Writ Petition (C) No.25501/2008. Though an order beneficial to the applicant was passed as at Annexure P6, the claim of the applicant was rejected by Annexure P7. Hence he has filed the petition before Hon'ble High Court which was subsequently transferred to this Tribunal and registered as TA No.2/2017.

2. The relief prayed for by the applicant in the present petition is to declare that the petitioner is entitled for reimbursement of remaining medical claim of Rs.81,532.98 with interest from the date of claim till the date of payment.

3. The brief facts of the case are that the applicant's mother was

.3.

suffering from blood cancer from 1995 onwards. On 16.10.1995 she was admitted to Kovai Medical Centre & Hospital Limited, Coimbatore in serious condition as she was profusely vomiting blood. There she was diagnosed as suffering from accute Lymphoblastic Leukemia and she was taking treatment as in-house patient. The applicant relied on Annexure P1 which provides for reimbursing the hospital treatment, 50% of the rate of Sree Gangaram Hospital, Delhi is made applicable. As regards the diagonalistic and pathological tests, surgery, etc., the employees of the C-MET are entitled for reimbursement of the actual charges by the notified hospital. Sree Gangaram Hospital, Delhi is one of the notified hospitals and the rates are applicable to them are mutatis mutandis followed in the case of reimbursement of medical expenses. As per the provisions of the rules, Appendix VIII provides for meeting emergency treatments and in such situation it is permissible to treat the patient at the nearest hospital where the facility is available and the rates are limited to the Government prescribed rates. But in case of C-MET the Annexure P1 rates applicable in the notified hospital can be granted for treatments and also in the case of diagonalistic/pathological tests, surgery etc. At the time of the treatment, the KMCH, Coimbatore was not recognised hospital under the said medical rules. It is submited that the applicant has incurred an expenditure of Rs.3,25,290/- and preferred claim in this regard. The claim was neither processed not paid by C-MET, raising host of objections as regard to the adminissibility, alleging that the mother was not a dependent on the applicant. Though there is was a direction of the Hon'ble Court on filing O.P.No.2908/2001 to pay the claim, the respondents ultimately paid the applicant only Rs.2,41,917/- and balance of Rs.81,532.98 has been withheld without

.4.

any basis. Aggrieved by this the applicant approached this Tribunal.

4. Notices were issued to the respondents and Respondents-2to4 have put up appearance and filed reply statement.

5. The first objection the respondents have taken in this regard is that the applicant's claimis liable to be rejected since the treatment was not taken in the notified hospital. It is submitted that as per Annexure P3 the petitioner has no legal right to insist for payment either at the rates applicable in Sir Gangaram Hospital or 50% thereof or the rates applicable in the Kovai Medical Centre. Since the claim of the applicant required consideration of the Executive Committee of C-MET, the matter was placed before the Committee and the same was rejected as stated in Annexure P4. It is submitted by the respondents that the reimbursement claimed now cannot be acceded to since it would result in a bad precedent and unnecessary financial burden on C-MET.

6. It is further submitted that the claim of the applicant of Rs.38072.18 relating to medicine/pharmacy is liable to be rejected as neither the bills nor the prescriptions are seen produced. Denial of Rs.10,000/- towards blood screening charges on the ground that necessary certificate from the blook bank was not produced. The claim of Rs.10,000/- was rejected on the ground for non-production of certificate from AMA. It is submitted that blood transfusion charges paid to a Government institution or anyother local organisation recognized by the State Government for the supply of blood to patiets in hospital are refundable under the rules. As regards Ambulance

.5.

charges, it is submitted that Government servant will be entitled for reimbursement of charges paid for an ambulance used for their conveyance or the conveyance of members of their families subject to that it is certified in writing by the medical authorities concerned. If the Ambulance is used to convey a patient to a place of treatment or to convey a patient from one hospital to another. It is further submitted that the reimbursement is limit to a fee of Rs.100/- per day and not per visit and out of the claim of Rs.22,150/- towards Doctor's fee Rs.18,200/- has been paid. It is further submitted that the claim for laboratory/theatre expenses is also not liable to be paid since the said tests undertaken at Sai Nursing home was not produced. It is further submitted that payment of Rs.70,253.18 comprising of the charges for Nursing charges, Medicine/Pharmacy, Blood bank Donor charges, Ambulance charges and Laboratory/Theatre charges are reimbursable only on production of prescribed certificates/proof as per CS(MA) Rules.

7. The rejoinder thereto has been filed by the applicant and it is submitted in the Annexure A16 that as per Centre for Materials for Electronics Technology order dated 17.11.1993 Clause 14(b) provides that full powers for relaxation of noraml rules is vested with the Executive Director of the Institution.

8. This matter is heard at length. During the course of hearing they submitted that the bills were never submitted to the department. Along with rejoinder the applicant has produced acknowledgements by the department for the bills. But this Tribunal again directed that as a interim measure to produce all the bills to the respondents and same

has been done. As per first objection raised by the respondents that the applicant has submitted that the applicant's mother was in-house patient, medicines were supplied by the hospital itself on the advice of the Doctor. The applicant submitted certified bills without the prescription and without signature of the hospital authorities. This Tribunal is of the view that the respondents are beating behind the bushes. Initially the first objection they have taken that it is not a notified hospital, this submission of the respondents is not acceptable for the simple reason that in case of emergency rules permit that the patient can be taken to nearby hospital where the facility is available. The applicant's mother had suffered serious disease.

9. Applicant had filed MA with diary No.3912 on 26th October, 2018 producing Annexures A18 and A19 with a copy to the respondents side. Respondents filed a reply affidavit with diary No.3993 dated 01.11.2018 and MA with diary No.2375 dated 01.11.2018 praying for reopening the matter. We have considered the contentions raised by the parities in the above MAs.

10. It is not the case of the respondents that she has never been admitted into the hospital and submitted fake bills. But the bills were not cleared in view of the technical reasons of C-MET. This Tribunal is of the view that in such cases respondents should have taken a lenient view due to mitigated circumstances suffered by the applicant. It is also not the case of the applicant that he got medical bills without the Doctor's advice and put up the claims of medical reimbursement. It is also not the case of the respondents that the applicant's mother never suffered with such a disease particularly in view of the medical

certificates so submitted. It is quite obvious that a patient cannot prescribe medicine for himself/herself as is due to lack of knowledge of medicines. It is prescribed by the Doctors and the patient has to consume the medicines. Thus it can be concluded that the bills so submitted by the applicant is only on the advice or as prescribed by the Doctors concerned who are treating the patients. In view of the facts and circumstances of the case and pleadings submitted before this Tribunal, this Tribunal hereby direct the respondents to pay as under:

- a) The medicines bill for a sum of Rs.38,072.18 is liable to be paid subject to calculation mistake etc.
- b) As regards the Ambulance charges of Rs.1,380/-, it is not possible for the applicant to get the certificate from the concerned hospital after lapse of time. The same shall be paid to the applicant.
- c) As regards nursing charges Rs.22,270.50 shall also be paid to the applicant without insisting upon the prescribed format etc.
- d) Laboratory/Theatre charge of Rs.370/- shall also be paid.
- e) As regards to Doctor's fee, it should be paid per daywise instead of per visit under the prescribed rules.
- f) As regards to the charges of Blood Screening/Transfusion of Rs.10,000/-, the same may be put up before the relaxation committee headed by the Executive Director in terms of Rule 14(b) (Annexure 16(4)) and if approved by the said authority, the same shall also be paid to the applicant.

.8.

11. In view of the above, this application is disposed of with direction that the payment should be made to the applicant within a period of 90 days from the date of receipt of this order. No order as to costs.

(Dated this the 5th November, 2018)

(ASHISH KALIA)
JUDICIAL MEMBER

sd

List of Annexures in T.A.No.180/00002/2017

- 1. Annexure P1** – Photocopy of Office Memorandum vide Ref.No.DL/ADM/AMAS/1/91 dated 27.05.1992 issued by C-MET.
- 2. Annexure P2** – Photocopy of judgment of this Hon'ble court dated 29.08.2002 rendered in O.P.No.2908/2001.
- 3. Annexure P2(a)** – Photocopy of letter No.DL/ADM/AMA/02/95/1837 dated 27.03.1997 issued by the 4th respondent to the Scientist-in-charge, referred to in the Writ Petition(Civil).
- 4. Annexure P3** – Photocopy of judgment of this Hon'ble Court, dated 7.8.2003 B rendered in W.P.[C] No.23955/2003 B.
- 5. Annexure P4** – Photocopy of Office Order No.TR/ADM/PER/WPN/060/03/13 DATED 14.5.2008 OF THE 3rd respondent issued to the petitioner.
- 6. Annexure P5** – Photocopy of representation dated 10.06.2008 submitted by the petitioner beforethe 1st respondent.
- 7. Annexure P6** – Photocopy of judgment of this Hon'ble Court, dated 25.08.2008 in W.P.(C) No.25501 of 2008.
- 8. Annexure P7** – Photocopy of communication received by the petitioner from the 1st respondent vide No.4(4) 2007-ABCD dated 16.12.2008.
- 9. Annexure P8** – Photocopy of communication issued by the Administrative Officer, C-MET to Kovai Medical Centre & Hospital Ltd., Coimbatore.
- 10. Annexure R2(a)** – True copy of the circular dated 22.06.1996 issued by C-MET.
- 11. Annexure P9** – True copy of the office order No.TR/ADM/PER/49/2001 dated 11.02.2003 issued by the Respondent.
- 12. Annexure P10** – True copy of the certificate issued by KMCH dated 02.07.1996 detailing the doctors fee and other details.
- 13. Annexure P11** – True copy of the certificate issued by KMCH dated 21.03.2003.
- 14. Annexure P12** – True copy of the Annexure II of claims/Part of the claims which are reimbursable only on the compliance of certain conditions by the claimant issued by the Respondent by office order (Ex.P9) dated 11.02.2003.
- 15. Annexure P13** – True copy of the table drawn by the respondents tallying a sum of Rs.3,25,290.18.

16. Annexure P14 – True copy of the break up details of the clinical test made by the Respondents.

17. Annexure R2(b) – A true copy of one of the consolidated non detailed bills termed as 'summary bill' dated 27.12.1997 issued by Kovai Medical Centre and Hospital Ltd and made available by the Petitioner to C-MET.

18. Annexure R2(c) – A true copy of one of the bills dated 28.05.1996, showing the names and price of each medicines, issued by Kovai Medical Centre and Hospital Ltd and made available by the petitioner to C-MET.

19. Annexure A15 – True copy of the order dated 24.04.2008 obtained under RTI.

20. Annexure A16 – True copy of the order of delegation of powers dated 17.11.1993.

21. Annexure A17 – True copy of bills which are alleged to be not submitted before the Respondent Authorities amounting to Rs.38,072/-.

22. Annexure A18 – True copy of the receipt of the bills amounting to the total claim of Rs.325290/- produced before the respondent and duly acknowledged by the Administrative Officer of C-MET, Thrissur dated 2.12.2002.

23. Annexure A19 – True copy of the letter bearing No.PN/ADM/PJT/97/dated 6.11.1997.

24. Annexure R2(d) – True copy of Office Memorandum dated 1.1.1992 issued by the Administrative Officer of C-MET, Thrissur along with a legible copy of the same.

25. Annexure R2(e) – A table showing the summary of the alleged copies of detailed bills (at pages 33 to 107, pages 111 to 112, 116 to 118, pages 122 to 123 and pages 127 to 129 of Annexure A-17).
