

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

O.A. No.1160/2016

Reserved On: 16.03.2018
Pronounced On: 23.03.2018

HON'BLE MS. NITA CHOWDHURY, MEMBER (A)

DS Bhasin,
Ex. (Retd.) DANICS, Age 78 years,
S/o Sh. S. Kartar Singh,
R/o 30/3, East Patel Nagar,
New Delhi-110008

- Applicant

(By Advocate: Shri Pradeep Kumar)

Versus

1. Government of NCT of Delhi
Through Divisional Commissioner,
Revenue Department,
General Administration Department,
5, Sham Nath Marg, Delhi
2. Director,
Directorate of Health Services,
Government of NCT of Delhi,
F-17, Karkardooma,
Delhi-110032

- Respondents

(By Advocates: Mr. RN Singh with Mr. Amit Sinha)

ORDER

This Original Application (OA) has been filed by the applicant, who retired as DANICS on attaining the age of superannuation after having served the Government of NCT of Delhi from 01.01.1960 to 1994. The applicant has prayed for the following reliefs:-

“a. Quashing and Setting aside of Orders dated 28.01.2015 and 22.08.2014 (Annexure -1, and Annexure-2 respectively);

b. Allowing of the present OA with directions to the respondents to pay/reimburse the expenditure incurred

by the applicant on his emergent treatment at Sir Ganga Ram Hospital, New Delhi between 19.11.2013 and 26.11.2013 and 06.01.2014 and 11.01.2014, amounting to Rs.1,64,523/- & Rs.1,09,145/- respectively, with interest @ 9% per annum from the date of rejection of the aforesaid medical claim for reimbursement by the respondents (22.08.2014);

c. Any other or further order or direction to grant complete relief to the applicant.”

2. The facts, in brief, are that the applicant fell in his house on 18.11.2013 and sustained injuries in his right leg and was unable to move. He was admitted to Fortis Jessaram Hospital, a panel hospital of GNCTD/DGEHS for treatment where attending doctor diagnosed him to be suffering from “Communited fracture Rt. Femur” and a bone surgery was advised. The applicant remained admitted in the said hospital from 18.11.2013 to 19.11.2013 and the said Hospital did not charge anything from him for this period.

3. The applicant further submitted that on 19.11.2013, as he was not keeping well, in emergency, he went to Sir Ganga Ram Hospital after being discharged from Fortis Jessarama Hospital and remained there till from 19.11.2013 to 26.11.2013. On 22.11.2013, surgery was done in Ganga Ram Hospital for fixation of femur bone and he was discharged on 26.11.2013. An amount of Rs.1,64,523/- was charged for the said treatment which was paid by the applicant in cash/through credit/debit card. As a follow up, on 06.01.2014, he was again admitted in the said hospital for bone grafting and surgery was done on 08.01.2014 and he remained admitted in the said hospital from

06.01.2014 to 11.01.2014. For the said grafting, he was charged Rs. 1,09,145/- which was paid in cash/through credit/debit card.

4. The applicant further avers that vide letter dated 21.04.2014, the applicant preferred two bills to GNCTD for reimbursement of the expenditure incurred by him at Sir Ganga Ram Hospital on two occasions, i.e., 22.11.2013 and 08.01.2014 (total amount Rs.2,73,668/-), but the same was not entertained by the respondents on the ground that "the treatment taken by you from Sir Ganga Ram Hospital on both occasions is a planned treatment and inadmissible as per provision of DGEHS Scheme." Thereafter, he preferred an appeal on 17.10.2014 to the respondents, but the same was also rejected on 28.01.2015. He has, thus, prayed that the OA be allowed with costs.

5. The respondents have filed their reply and submitted that the claim of the applicant was sent to DHS for seeking approval/clarification, but was rejected by the DHS on the ground that he has taken treatment in a non-empanelled hospital not for an emergency condition but in a planned manner and this is inadmissible as per provisions of DGEHS Scheme and the same was communicated to him on 22.08.2014. Again his case was sent to DHS but the same was rejected vide letter dated 28.01.2015.

6. The respondents further submitted that on perusal of all the relevant documents, it has been observed that applicant

was admitted in Jassaram Hospital, which is an empanelled hospital under DGHS on 18.11.2013, for 'Comminuted fracture Rt. Femur'. Moreover, in the emergency certificate issued by the Jessaram Hospital, it has been clearly mentioned that applicant was discharged on his own request as he wanted to continue treatment elsewhere. Therefore, it is not a case of reference in emergency but a planned surgery for which he got himself discharged from the said empanelled hospital. Hence, respondents have acted in accordance with rules and as such, the applicant is not entitled for any relief and the OA deserves to be dismissed.

7. I have heard the learned counsel for the parties and gone through the pleadings.

8. During arguments, learned counsel for the respondents drew my attention to the contentions of the applicant in Annexure A/4 itself to show that the applicant himself was a very Sr. Officer of the DANICS cadre and was well aware of the rules with regard to medical reimbursement and, therefore, his decision to shift himself from Fortis Jessaram Hospital to Sir Ganga Ram Hospital, i.e. from a medical reimbursement empanelled hospital to a non-empanelled hospital was based on his personal choice and not due to any medical reasons or emergency.

9. Learned counsel for the respondents also points out that no surgery was needed on the day when the applicant went to Sir Ganga Ram Hospital and all the surgery/said treatment was

done at different periods of time as can be seen from the following extract of the letter written by the applicant himself at Annexure A/4 of the OA:-

“After all investigation and complete checking of my parameters my high risk surgery for fixation of femur bone (internal fixation of femur bone with long DCS) was done on 22.11.2013, I was again admitted in the Ganga Ram Hospital on 06.01.2014 for continuous of treatment of bone fixation done earlier on 22.11.2013 for bone grafting of femur bone of fracture which was fixed earlier on 22.11.2013. The emergency certificate from Sir Ganga Ram Hospital is also attached.”

10. On perusal of the record especially Annexure A/4, it becomes clear that the applicant first went for treatment to Fortis Jessa Ram Hospital on 18.11.2013 and was discharged on his request that they wanted to continue treatment elsewhere and as per emergency certificate given by Fortis Jessa Ram, it is stated that “*Treatment Managed Conservatively (as patient was discharged on request as they wanted to continue treatment elsewhere).*” Even in his own letter at Annexure A/4 addressed by the applicant for reimbursement of his medical bills to the Superintendent (G.A.), Revenue Department, Delhi, the applicant clearly states that “*My bone surgery was slated at Fortis Jessa Ram Hospital on dated 20.11.20013 but my family noticed that there were inadequate arrangement for high risk surgery in this hospital and they shifted me to Sir Ganga Ram Hospital on 19.11.2013 where I was admitted in emergency after release from Jessa Ram Hospital.*” Hence, it is expected by the applicant himself that it was his/his family’s decision to shift him from Fortis Jessa Ram Hospital, a DGEHS empanelled

hospital, to Sir Ganga Ram Hospital, which is non-empanelled hospital. Hence, the respondents were correct as per rules in not providing him medical reimbursement.

11. However, nobody can deny that every member of a service similar to that of the applicant is entitled to medical treatment after his retirement. Therefore, even if, the applicant had got himself admitted to a Government hospital, some expenditure would have been incurred on his treatment which he has presently undergone and for which he has submitted medical reimbursement claim. Therefore, it is directed that his claim be viewed in the perspective of cost at the rate admissible to non-EWS category which would have been incurred on similar treatment in a Government hospital and to at least reimburse the same as a compassionate measure, within a period of 90 days.

12. The OA stands disposed of with the above directions. No costs.

**(Nita Chowdhury)
Member (A)**

/1g/