

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

OA No.689/2018

New Delhi this the 11th day of May, 2018

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

N.D. Kaushik (Aged 68 years, Group 'A')
Commandant-Law
Border Security Force,
S/o late Shri Risal Singh,
709-P, Sector-10-A, Gurgaon,
Haryana, PIN-122001.

-Applicant
(Applicant present in person)

Versus

1. Union of India
Through its Secretary,
Ministry of Health & Family Welfare,
Nirman Bhawan,
New Delhi-110011.
2. The Additional Director,
South Zone CGHS,
R.K. Puram, New Delhi.

-Respondents
(By Advocate: Shri Kumar Onkareshwar)

ORDER (Oral)

The applicant retired from the post of Commandant (Law) from Border Security Force (BSF) on 30.04.2010. He had been a CGHS beneficiary while in service. After his retirement, he applied for a CGHS Card, which was issued to him, a photo copy of the

Card is at Annexure A-4. This Card is valid for whole life and it also entitles for Private Ward facilities.

2. The applicant was required to undergo knee transplant. For this purpose, he obtained permission of the CGHS authorities vide Annexure A-5 letter dated 09.11.2015. The said letter authorised him to undergo the knee transplant at Indian Spinal Injuries Centre, Vasant Kunj, New Delhi. It further permitted him to undergo certain procedures/investigations at the Hospital/Diagnostic Centre. The applicant accordingly underwent the knee transplant at the Indian Spinal Injuries Centre on 21.01.2016. The Hospital presented a bill of Rs.2,50,390/- (Annexure A-7). The applicant submitted the bill to the CGHS authorities for reimbursement but they restricted the reimbursement to Rs.1,04,715/- only.

3. Post operation, the applicant went to the same hospital on different dates for follow up. As advised by the hospital, he had to undergo X-ray, Physiotherapy at the hospital. He also purchased certain medicines for self-use as advised by the doctors of Indian Spinal Injuries Centre. He incurred an expenditure of Rs.67,911/- on the medical tests, medicines and physiotherapy. The bills of these miscellaneous expenses are at pages 36 to 51. The

respondents have reimbursed only an amount of Rs.4200/- towards the miscellaneous expenses relating to physiotherapy.

4. Aggrieved by the action of the respondents in not reimbursing the medical bills fully including those relating to miscellaneous expenses, the applicant has filed the instant OA praying for the following reliefs:-

“a) Quash and set aside impugned to extend medical reimbursement has been passed only for Rs.4200/- (Rupees Four Thousand & Two Hundred only), against the total amount claimed Rs. 67911/- only (Rupees Sixty Seven Thousands Nine Hundred & Eleven) sanction order No. P-2096/2016/D-73 dated 8.2.2017.

b) Direct the respondents to re-imburse the medical expenses incurred by the applicant to the tune of Rs.67911/- alongwith 9% interest from the date of rejection i.e. 8.2.2017 till the realization of the said amount”.

5. The respondents in their reply have stated that the reimbursement of the medical claims of the applicant have been processed and allowed in terms of OM dated 11.03.1993, concurrence of Internal Finance Division (IFD) dated 20.02.2009 and order dated 07.03.1995 (Annexure R-1 (colly).

6. Arguments of applicant, as party in person and that of Shri Kumar Onkareshwar, learned counsel for the respondents were heard today.

7. I have given my thoughtful consideration to the arguments of the rival parties and perused the pleadings.

8. In this case, the applicant underwent knee transplant after obtaining approval from the CGHS authorities and that too from a hospital, which is a CGHS empanelled hospital. In view of this, it was not correct on the part of the CGHS authorities not to reimburse the medical expenses on actual basis. The applicant did not have any control over the medical expenses nor has he profiteered from them. I would like to further observe that the rates mentioned in the orders dated 07.03.1995 (Annexure A-3) and in the OM dated 11.03.1993 cannot be applied to the medical bills of two decades later. In these two decades, the rates might have gone up multiple times. Even the Annexure A-3 OM dated 07.03.1995 itself states that the ceilings prescribed in it are valid only for a period of five years.

9. It is understandable that after a major surgery like knee transplant, the applicant had to go for follow up at the hospital and as advised by the hospital had to undergo certain tests, physiotherapy and medication.

10. Under the circumstances, I am of the view that the applicant deserves full reimbursement of the expenditure incurred by him. Accordingly, this OA is allowed. Respondents are directed to reimburse the entire expenditure of Rs.2,50,390/- incurred by the applicant on his knee transplant at Indian Spinal Injuries Centre as

per the Annexure A-7 bill. Respondents are further directed to reimburse him the medical expenses of Rs. 67,911/- incurred by him as per the bills at pages 36 to 51 of the OA. This shall be done within a period of three months from the date of receipt of a copy of this order. It is, however, clarified that any amount already paid shall be adjusted against the claims allowed.

11. No costs.

(K.N. Shrivastava)
Member (A)

cc.