

CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE BENCH

ORIGINAL APPLICATION NO.170/00009/2017

DATED THIS THE 14<sup>th</sup> DAY OF AUGUST, 2017

HON'BLE JUSTICE SHRI HARUN UL RASHID, MEMBER (J)

HON'BLE SHRI PRASANNA KUMAR PRADHAN, MEMBER (A)

S.V.Nagabhooshana  
S/o. S.Venkataramana Bhat  
Aged about 61 years  
No.3/2, 9<sup>th</sup> Cross  
1<sup>st</sup> Main Road, Jayanagar  
Mysore-570 014.  
(Retired Section Supervisor)  
.....Applicant

(By Advocate Shri C.K.Nagendra Prasad)

Vs.

1. The Regional Provident Fund Commissioner-I  
Employees Provident Fund Organisation  
"Bhavishyanidhi Bhavan"  
Highlands, Silva Road  
Mangaluru-575 002.
2. The Additional Central Provident Fund Commissioner  
(Karnataka & Goa), Bhavishyanidhi Enclave  
H.M.T.Main Road, Jalahalli  
Bangalore 560 013.
3. The Central Provident Fund Commissioner  
Employees Provident Fund Organization  
Head Office. "Bhavishyanidhi Bhavan"  
#14, Bhikaji Cama Place, New Delhi-110 066. ....Respondents

(By Advocate Sri. P.I.Bhat)

O R D E R (ORAL)

(PER HON'BLE SHRI PRASANNA KUMAR PRADHAN, MEMBER (ADMN))

The applicant has filed the OA seeking the following relief:

- a. *Direct the respondents to regulate the medical reimbursement claim as per Rule 6 of CCS(MA) Rules 1944 and thus order to pay the entire medical reimbursement amount after deducting the amount of Rs.38,312/- which was paid as against Rs.71,026/-.*
- b. *Award 12% interest per annum on the amount withhold/delayed payment in the interest of justice.*
- c. *Award cost of this litigation.*

2. The applicant submits that he is a retired employee of the Employees Provident Fund Organisation (EPFO), Bangalore and is residing in Mysore. The retired employees of EPFO were initially covered under the Medical Facilities of Oriental Insurance Co. Ltd. However, w.e.f. 24.10.2006, the retired employees were brought under the CS(MA) Rules 1944 for indoor treatment and earlier oriental scheme was ceased to exist on expiry of its term. The applicant who underwent treatment as inpatient at Apollo Hospital, Mysore was admitted on 6.4.2016 and discharged on 9.4.2016. He preferred a medical bill for reimbursement of Rs.71,026/- to the respondents. However, the respondent No.2 sent a cheque for Rs.38,312/- only which was directly credited to the SB account of the applicant maintained at SBI, Mysuru. Aggrieved by the same, the applicant preferred a detailed representation to the respondent No.1 on 26.7.2016(Annexure-A5) and requested to settle his medical claim as per CS(MA) Rules and to pay the balance amount. However, the respondent No.1 gave a reply on 5.8.2016(Annexure-A6) saying that medical bill has been reimbursed by applying CS(MA) Rules 1944 and settled according to CGHS rates.

3. This Tribunal in several OAs viz. OA.65/2012, 301/2012 and 334/2014 decided in favour of the applicant for full medical reimbursement. The order of the Tribunal in OA.No.334/2014 was challenged before the Hon'ble High Court of Karnataka in WP.No.33026/2015(S-CAT) and the Hon'ble High Court vide order dated 30.11.2015 referring to Rule 6 of CS(MA) Rules 1944 upheld the order of the Tribunal and ordered for full reimbursement of the medical expenses. The respondents approached the Hon'ble Supreme Court in SLP No.9294/2016 wherein the Hon'ble Apex Court did not find any infirmity in the order passed by the Hon'ble

High Court of Karnataka.

4. The applicant submits that since he is governed by CS(MA) Rules 1944, in terms of which the cost of the treatment should be fully reimbursed. There is no enabling provision to restrict or to fix ceiling on medical reimbursement bills under Rule 6 of CS(MA) Rules 1944. Therefore, he prays for granting the relief as sought for.
5. The respondents have filed reply statement in which they submit that the applicant was serving as Section Supervisor in EPFO at Sub Regional Office, Mysuru and retired on 31.8.2015. On 9.4.2016, he sought for reimbursement to the tune of Rs.71,026/-. The 1<sup>st</sup> respondent considered the bills and reimbursed the amount of Rs.38,312/- as per CGHS rates. As per standing instructions applicable to the serving and retired employees of EPFO, permission has been granted to avail treatment from any of the hospitals recognised by the State Government or under the CGHS Rules/CS(MA) Rules, 1944 as well as the hospitals fully funded by either Central Government or State Government. However the amount reimbursed will be restricted to the rates fixed by the Government under the CGHS Rules/CS(MA) Rules, 1944 or the actual expenditure incurred, whichever is less. They also submit that two medicine bills of Rs.1532/- and Rs.1310/- were not purchased at the time of hospitalization.
6. According to the instructions contained in OM dated 28.3.2000 and 4.1.2007, it is not necessary that the CGHS rates can be made applicable to a claimant only if he is a beneficiary of CGHS facilities. The Apollo Hospital, Mysuru is a recognised hospital by the Government of Karnataka. However, the office of the respondents processed the claims

and settled as per CS(MA) Rules by applying CGHS 2014, Bangalore rates since there is no separate rate fixed in CGHS 2014 for Mysuru. They submit that the hospital bills produced by the applicant comparing to CGHS 2014 rates are very high and accordingly, the medical claim of the applicant has been settled in accordance with the CGHS 2014 Bangalore rates. They also submit that the judgment referred to by the applicant is not applicable to the facts of the case.

7. Heard the Learned Counsel for the parties. The Learned Counsel for the applicant while reiterating the submission made in the OA submitted that the applicant had undergone treatment in a recognised hospital of the respondents under CS(MA) Rules. The rules do not stipulate any restriction on the reimbursement to be made and the Rule-6 of the CS(MA) Rules clearly stipulates that the Government servant is entitled to full reimbursement for the treatment in the hospital. He also referred to the Court cases as mentioned in the OA and says that in similar cases, the applicants therein have been reimbursed fully for the cost of treatment in a recognised hospital. Hence, he is entitled for full reimbursement and not part.
8. The Learned Counsel for the respondents while highlighting the submission made in the reply statement submits that no doubt the Apollo Hospital in Mysore is recognised hospital but it does not automatically mean that the entire cost of the treatment has to be paid. Their rates appear exorbitant and hence reimbursement will be allowed as per CGHS rates. The Applicant have gone to other hospitals which are reasonable priced. Since the applicant is entitled to reimbursement as per CGHS rates, he was paid accordingly.

9. We have carefully considered the facts of the case and submissions made by either side. It is an admitted fact that the applicant is a retired employee of the respondents and is covered by the CS(MA) Rules. The hospital which he underwent treatment is a recognised hospital and there is no bar for him taking treatment therein. This issue of reimbursement under CS(MA) Rules 1944 has been earlier considered by this Tribunal which has also been considered by the Hon'ble High Court of Karnataka. The Hon'ble High Court of Karnataka in WP.No.33026/2015(S-CAT) vide para 4 & 7 held as follows:

*4. The question as to whether the respondent is entitled to the reimbursement of full amount or not including even the cost of third stent is fully covered by the Division Bench of this Court in the case of **THE REGIONAL PROVIDENT FUND COMMISSIONER AND OTHERS V/s. C.K.NAGENDRA PRASAD, in W.P.No.8995/2013 (S-CAT)** disposed of on **13.6.2013**, wherein this Court relying upon Rule 6 of CS(MA) Rules, 1944, ('Rules' for short) concluded that the Office Memorandum cannot regulate the Rules or restrict the operation of the Rule. Rule 6 is beneficial provision, which should be interpreted to give its full effect and not to restrict or to deprive of the benefits to the employee. The Rules are applicable to all the Central Government servants when they are on duty, leave or foreign service in India or when under suspension. The said Rules are applicable to the EPFO. Rule 6 of the Rules reads thus:*

*"6. (1) A Government servant shall be entitled, free of charge, to treatment –*

*a) in such Government hospital at or near the*

*place where he falls ill as can in the opinion of the authorized medical attendant provide the necessary and suitable treatment; or*

*b) If there is no such hospital as is*

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Clause (a) in such hospital other than a Government  
hospital at or near the place as can in the opinion of  
the authorized medical attendant, provide the  
necessary and suitable treatment.

(2) Where a Government servant is entitled under sub-rule (1), free of charge, to treatment in hospital, any amount paid by him on account of such treatment shall, on production of a certificate in writing by the authorized medical attendant in this behalf, be reimbursed to him by the Central Government;

*Provided that the Controlling Officer shall reject any claim if he is not satisfied with its genuineness on facts and circumstances of each case, after giving an opportunity to the claimant of being heard in the matter. While doing so, the Controlling Officer shall communicate to the claimant the reasons, in brief, for rejecting the claim and the claimant may submit an appeal to the Central Government within a period of forty-five days of the date of receipt of the order rejecting the claim."*

*(emphasis supplied)*

*The bare reading of the said Rule makes it amply clear that the Government servant shall be entitled to free of charge, to treatment in such Government hospital at or near the place where he falls ill as can in the opinion of the authorized medical attendant provide the necessary and suitable treatment. If there is no such Government hospital is available nearby, the Government servant may take medical help from nearby hospital, which provides the necessary and suitable treatment. The Government servant is entitled to free of charge, treatment in hospital and any amount paid by him on account of such treatment shall, on production of a certificate in writing by the authorized medical attendant in this behalf, be reimbursed to him by the Central Government. Hence, Rule 6 makes it amply clear that the Government servant is entitled to treatment free of charge and any amount paid on account of such treatment shall, on production of a certificate in writing, in this behalf, be reimbursed to him by the Central Government.*

*7. As has been held by the Division Bench of this Court in W.P.No.8995/2013 (S-CAT) disposed of on 13.6.2013, mentioned supra, the Government servant is entitled to free of charge, treatment in hospital and any amount paid by him on account of such treatment shall, on production of a certificate in writing by the authorized medical attendant in this behalf, be reimbursed to him by the Central Government as per Rule 6 of the Rules. The Official Memorandum relied upon by the petitioner's counsel cannot restrict or deprive the benefits to the employee provided under Rule 6 of the Rules.*

*Hence, no interference is called for. Accordingly, petition fails and the same stands dismissed.*

*We hope and trust that the Central Government shall amend its O.M.No.S.14025/55/92-MS dated 19.8.1993 in consonance with Rule 6 of the Rules, keeping in mind the observations made supra and having regard to the present day cost of stents.*

10. The respondent organisation has permitted treatment in any of the recognised hospitals. Hence, they cannot restrict the charges levied by the hospital. If they were of the view that some hospitals are charging exorbitant, then they should have taken them out from the list of recognised hospital rather than giving permission to the retired employees to take the treatment in any of the recognised hospital and then restrict the charges actually paid by him thereafter. Since the applicant had undertaken treatment in a recognised hospital, we are of the view that he is entitled to full reimbursement in terms of rule-6 of CS(MA) Rules. Therefore, on detailed consideration of the fact and in the light of earlier decision of this Tribunal and the Hon'ble High Court of Karnataka as mentioned earlier, we hold that the applicant is entitled to full reimbursement of the amount spent for his treatment taken in the recognised hospital. However, if the respondents are of the view that two medicine bills were not purchased during treatment in the hospital, they can deal with the same as per rules. The balance amount should be reimbursed to the applicant as per his entitlement within a period of two(2) months from the date of receipt of copy of this order.

11. The OA is accordingly, allowed in terms of the aforesaid direction. No order as to costs.

(P.K.PRADHAN)  
MEMBER (A)

(JUSICE HARUN UL RASHID)  
MEMBER (J)

/ps/

