

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR**

Original Application No.290/00359/2016

RESERVED ON: 02.08.2018

**Jodhpur, this the 13th August, 2018
CORAM
Hon'ble Smt Hina P. Shah, Administrative Member**

Ghanshyam Singh (Retired) S/o Shri Ramdev age about 66 years R/o H.No. 55, Nehru Colony, Baghi Khana Road, Ratanada, Jodhpur, last office served, Garrison Engineer (Army) Utility, Jodhpur Rajasthan and Central Government Health Scheme beneficiary.

.....Applicant

By Advocate : Mr Samuel Masih, applicant in person.

Versus

- 1. Secretary, Ministry of Health & Family Welfare, Government of India, Nirman Bhawan, New Delhi.**
- 2. Additional Director, Government of India, Central Government Health Scheme, Kendriya Sadan Parisar 'B' Block, Ground Floor, Sector-10, Vidhyadhar Nagar, Jaipur-302039.**
- 3. Goyal Hospital & Research Centre Pvt. Ltd., 961/3, Residency Road, Jodhpur-342003.**

.....Respondents

By Advocate : Mr. K.S. Yadav (R-1 & R-2).

ORDER

The present Original Application has been filed u/s 19 of the Administrative Tribunals Act, 1985 seeking following reliefs:-

- (i) That respondents be directed to reimburse all the medical claims referred in this OA for availing treatment and tests carried out on the wife of the applicant and also the bills which have not been forwarded to respondent No. 2 for reimbursement till date.**
- (ii) The respondents may be also be directed to reimburse all the medical bill in future for treatment from Goyal Hospital & Research Centre Pvt. Ltd., 961/3, Residency Road, Jodhpur-342003 as long as the respondent No. 3 remains empanelled by the Ministry of Health & Family Welfare, Govt. of India.**
- (iii) Any appropriate order or relief which the Hon'ble Tribunal deems fit in favour of the applicant.**

(iv) Cost of Original Application may kindly be awarded to the applicant.

2. The facts of the case, in brief, are that the applicant is a Central Government Health Scheme beneficiary, holds a valid CGHS card and lives in Jodhpur. Applicant's wife Smt. Hamja took treatment from M/s Goyal Hospital & Research Centre, Jodhpur, which is a recognized hospital for treatment of Central Government employees under CS (MA) Rules, 1944. The applicant' wife was treated in OPD on 18.04.2016 & 19.05.2016, and in IPD, on 22.04.2016 of M/s Goyal Hospital & Research Centre, Jodhpur. The applicant incurred expenditure towards various tests, purchase of medicines, IPD treatment etc. as mentioned in the OA while treating her wife in M/s Goyal Hospital & Research Centre, Jodhpur. The applicant submitted the medical bills for Rs 1209, Rs 16,970/- and Rs 796/- to Additional Director, CGHS through CMO In-charge of CGHS Wellness Centre No. 4, D-143/A/2, Basant Marg, Bani Park, Jaipur (Respondent No. 2) where his CGHS card is registered. Respondent No. 2, however, returned the medical bills submitted by the applicant vide letter dated 21.06.2016 (Annex. A/1), 21.06.2016 (Annex. A/2) & 29.09.2016 (Annex. A/3) with the observation that direct OPD consultation & routine investigations done in private hospital are not allowed except emergency as there being no description in prescription dated 18.04.2016 & 19.04.2016 and OPD medicines purchased by the CGHS beneficiaries are not reimbursable and they should be got issued by the beneficiary from the concerned CGHS dispensary. It was clearly stated in his rejection of medical claim letter that the emergency certificate of treating doctor or admission memo of CGHS Wellness Centre was required for settlement of his medical reimbursement claim. Aggrieved of rejection of his medical claims for OPD, as well as IPD treatment, the applicant has preferred the instant OA.

3. The respondent No. 1 & 2 have filed reply and submitted that in case of non-emergency treatment from the hospital approved under CSMA Rules and ECHS Scheme, it is necessary to obtain prior approval from CMO In-charge of concerned Wellness Centre. As the applicant's CGHS Card is registered with CGHS Wellness Centre No. 4, Jaipur, he was required to take prior approval before taking treatment from a recognized hospital. The applicant did not take approval; therefore, he is not entitled for reimbursement of his medical claim. It has been further averred in reply that reimbursement of cost of medicines is barred by OM dated 24.07.1995 as the same is required to be issued from concerned CGHS Dispensary. Vide letters dated 21.06.2016 (Annex. A/1 & A/2), respondent No. 2 asked the applicant to submit the emergency certificate of treating doctor or admission memo of CGHS Wellness Centre but the applicant has not submitted the same till today. Direct OPD consultation and routine investigation done in

private hospital are not allowed without CGHS reference slip or emergency. Same observations are also made in letter dated 29.06.2016 issued to the applicant. The medicines of OPD treatment are required to be obtained from CGHS dispensary. As per OM dated 27.04.2011, in-patient treatment and post operative follow up treatment is allowed. Further, as per OM dated 02.11.2012 which deals with pensioners living in non-CGHS area, it is provided that the pensioners who have settled in non-CGHS area have an option to join Health Care Scheme by getting themselves enrolled with CGHS and can avail OPD as well as IPD medical facilities from any CGHS Dispensary as well as empanelled hospitals convenient to them by following procedure laid down for this purpose. Only in case of emergency, such incumbents are allowed to take treatment from any hospital which is reimbursable to the extent of CGHS approved rates. Likewise, the facility of IPD medical treatment and post operative follow up treatment from the hospitals in non-CGHS areas recognized under CSMA Rules and ECHS can be taken for which they required to submit the medical claim to Additional/Joint Director of CGHS or the CMO In charge of CGHS Wellness Centre where they are registered. For medical treatment one is required to follow the procedure laid down under OM dated 27.04.2011. In this case, the applicant's claim is neither pertaining to emergency treatment nor pertaining to in-patient treatment. Hence, the relief claimed by the applicant is barred by operation of rules and OM on the subject and OA is liable to be dismissed.

4. The respondent No. 3, i.e. M/s Goyal Hospital & Research Centre, Jodhpur has submitted separate reply and submitted that respondent No. 3 has limited role to provide medical facility only on production of valid CGHS card at the rate fixed for CGHS as per MoU dated 16.06.2011 and has no role to play in the reimbursement of claims made by CGHS beneficiary. Hence, arraying the respondent No. 3 as party-respondent is not justified and prayed to relieve the respondent No. 3 from the OA.

5. In rejoinder, the applicant reiterated that bills for treatment in OPD and IPD at Goyal Hospital, Jodhpur, which is an empanelled hospital is reimbursable in terms of MoH&FW OM dated 02.11.2012 and 02.09.2015. He further stated that the patient is a 62 years woman who developed instant pain in her eyes and under these conditions it cannot be expected for her to go to CGHS Wellness Centre No. 4 which is at Jaipur or wait for the prior permission of treatment.

6. Heard both the parties.

7. The applicant in rejoinder, relied upon para 11 & 12 of MoH&FW OM dated 16.06.2011 (Annex. A/24) & 02.09.2015 (Annex. A/25). As per OM dated 02.09.2015, the applicant submitted that the pensioner CGHS beneficiaries and their dependents & eligible family members are entitled to avail medical facilities in Goyal Hospital,

Jodhpur. The pensioner CGHS beneficiaries would make payment for the medical treatment and submit the claim to Addl. Director, CGHS through CMO i/c of the CGHS Wellness Centre, where the CGHS Card of the beneficiary is registered. Accordingly, he submitted the bills to respondent No. 2 for reimbursement but the same were returned vide letters dated 21.06.2016 (Annex. A/1 & A/2) and 29.06.2016 (Annex. A/3). He further contended that as per OM dated 02.11.2012 (Annex. R/3) of MoH&FW, GOI, pensioners who have been settled in non-CGHS areas can avail both, OPD as well as IPD medical facilities from any CGHS dispensary and empanelled private hospital & diagnostic centres convenient to him by following the laid down procedures. Furthermore, it is not feasible for a pensioner to avail treatment in Jodhpur and get his medicines issued from CGHS Wellness Centre at Jaipur for his treatment. The applicant thus contended that returning of his medical claim by respondent No. 2 is violative of Article 14, 16 and 21 of the Constitution of India and prayed that respondent No. 2 may be directed to reimburse his medical claim and all future medical bills for treatment availed in Goyal Hospital, Jodhpur. In support of his arguments, he relied upon the following judgments :

- (i) **Himachal Pradesh High Court Judgment in Sudarshan Kumar Sharma Versus Union of India through Secretary-Home, New Delhi reported in 2013(1) SCT 817.**
- (ii) **Himachal Pradesh High Court Judgment in Union of India and another Versus Shankar Lal Sharma reported in 2016(1) SCT 414.**
- (iii) **CAT Jodhpur Bench Judgment in Smt Kamlesh Versus Union of India & Ors. (OA No. 290/00216/2016) dated 08.03.2017.**
- (iv) **Apex Court Judgment in Surjit Singh Versus State of Punjab & Ors, 1996 (2) SCT 234.**
- (v) **Apex Court Judgment in State of Punjab & Ors Versus Mohinder Singh Chawla & Ors, 1997(1) SCT 716**

8. Per contra, learned counsel for the respondents contended that the applicant opted for CGHS Card at his residential address of Jodhpur with CGHS Wellness Centre No. 4, Jaipur. The medicines prescribed during OPD treatment are provided by the CGHS Wellness Centre itself and hence, any medicine purchased during OPD treatment from outside is not reimbursable. For OPD treatment, the applicant was required to take prior permission of respondent No. 2, which is required as per OM dated 27.04.2011. Hence, the medical bills of the applicant were returned as the same were not pertaining to the 'emergency'. Thus, the action of the respondents in returning the medical bill as being non-reimbursable is proper, justified and legal.

9. I have considered the rival contentions and perused the record as well as judgments cited by the applicant. The facts and issues involved in the instant OA are similar to OA No.

290/00122/2016 (Samual Masih Vs UOI & Ors) pronounced on

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09.08.2018 except that the patient (applicant's wife) in the instant OA took treatment on 22.04.2016 in IPD of Goyal Hospital & Research Centre Pvt. Ltd, Jodhpur. She was, however, discharged on the same day.

10. This Tribunal in the case of Samual Masih Vs UOI & Ors (OA No. 290/000122/16) after discussing the issue in great detail and taking into account the same OMs and judgment cited by the learned counsel for the applicant herein held that in non-emergency cases, it is necessary for the applicant to take prior approval of the competent authority in case of CGHS beneficiary residing in non-CGHS covered areas for reimbursement of OPD treatment in recognized hospitals and the applicant once opted for a particular Scheme as per his choice, should be reimbursed for the medical claim as per procedure contemplated in the Scheme itself. So far as reimbursement of IPD treatment dated 22.04.2016 taken by applicant's wife is concerned, it is noted that the applicant's wife took treatment in OPD of Goyal Hospital & Research Centre Pvt Ltd, Jodhpur on 18.04.2016 and thereafter, she took treatment in IPD on 22.04.2016. The applicant could not convince this Tribunal that there was an emergency for taking such treatment without approaching the competent authority for permission as contemplated in the Scheme.

11. In view of the discussions hereinabove made, the applicant is not entitled for any relief. Accordingly, OA is dismissed with no order as to costs.

**[Hina P. Shah]
Judicial Member**

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