

CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH

...

Original Application No.290/00415/2016

Reserved on : 02.08.2018
Pronounced on : 08.08.2018

CORAM:

HON'BLE MRS. HINA P.SHAH, MEMBER (J)

Hari Dutt s/o Shri Damodar aged 69 years, by cast Brahmin R/o Plot No.C-114, Rajiv Nagar, O/s Mahamandir Third Pole, Jodhpur (Rajasthan), retired from post of P.S.-II under DRM, North West Railway, Jodhpur.
...Applicant

(By Advocate: Shri Dilip Vyas)

Versus

1. Union of India through General Manager, NW Railway, Jawahar Circle, Jaipur (Raj.)
2. The Divisional Railway Manager, North West Railway, Jodhpur (Raj.)
3. The Chief Medical Superintendent, NW Railway, Jodhpur (Raj.)
4. The Chief Medical Director, NW Railway, Jaipur (Raj.)
5. The Additional General Manager, NW Railway, Jaipur (Raj.)

...Respondents

(By Advocate: Shri Vinay Chhipa)

ORDER

The applicant in the present OA is seeking quashing and setting aside the impugned order dated 30.07.2016 (Ann.A/1) whereby his claim for reimbursement of medical expenses has been rejected. He is also seeking an interest @ 18% p.a. from the date of filing of the claim.

2. Brief facts of the case are as under:-

The applicant retired from the post of PS-II under Divisional Railway Manager, North Western Railway, Jodhpur and was paid his retiral benefits vide PPO dated 5.2.2010. Due to aging effect, he had developed serious ailments and was admitted to the Divisional Railway Hospital, Jodhpur on 3.6.2014. Due to his serious condition, immediately on the same day, he was referred to the Central Hospital, NW Railway, Jaipur, where he was diagnosed as suffering from Pulmonary Embolism. Due to seriousness of the disease, the Central Hospital, NW Railway, Jaipur referred the applicant to Heart and General Hospital, Jaipur on the same day i.e. on 3.6.2014. The applicant remained admitted in the said hospital from 3.6.2014 to 13.6.2014. During this period, the condition

of the applicant did not improve and the Doctors of the Heart and General Hospital suggested the attendants of the applicant to take him to some higher centre. The applicant with a case of hypertension, Type:2 diabetes mellitus, hypothyroidism, DVT (right lower limb) IVC in plant 04.04.2014, urinary track infection had complaint of fever, pain in lower limb and was diagnosed as a case of Septicemia, Pulmonary Embolism and Septic Shock and since he was critically ill, his dependent family members shifted him to SAL Hospital, Ahemadabad. The applicant remained at SAL Hospital from 14.6.2014 to 24.6.2014 and when his condition became stable, he was discharged from the said hospital. Thereafter, the applicant submitted a summary of the treatment bill of Rs. 1,66710/- to respondent No.3 for reimbursement for the treatment taken by him in the SAL Hospital.

It is his submission that his claim for reimbursement was examined by respondent No.2 and 3 on 18.8.2015 and they have recommended his case as a case of emergency for treatment being taken at private hospital i.e. SAL Hospital, Ahemadabad. The case was again referred to respondent No.3 on a query being raised by respondent No.5 through respondent No.4 and then again on 16.11.2015 his case was re-examined by respondent No.3 and he has reiterated the opinion given on 18.8.2015. The contention of the applicant is that due to whimsical adamancy and administrative pressure exerted by respondent No.5, the opinion towards emergency was changed and it was submitted that the present case could not be of an emergency and the said decision was communicated to the applicant through the impugned order dated 30.7.2016.

3. The respondents rebutted the claim submitting that when the patient remained at Heart and General Hospital, Jaipur from 3.6.2014 to 13.06.2014 his health condition was improving and stable. It was only on the request of the applicant's relatives and their pressure to the hospital administration the applicant was discharged with the following remarks:-

"Patient Progress during Hospital Stay"that "A 69 yrs old male patient (applicant K/c of DVT, T2DM, Hypothyroidism, IVC filter implantation (4.4.14) was admitted with pain in right lower limb since 1 month with fever since last few days with SOB and palpitation and chest discomfort. Patient was duly investigated and Doppler study, CECT abdomen and 2D Echo and USG, urine culture done and managed conservatively and symptomatically. Patient is improving. Patient stay in hospital remain uneventful and discharged with stable and normal vitals with following medications in view of persistent complains attended want to shift to higher studies. Patient condition at the time of discharge was also stable."

The respondents, therefore, submit that it is ex-facie clear that at the time of discharge on request of the relative of the applicant, his health condition was improving and was stable, but applicant was discharged under pressure of applicant's relatives. There was no emergent situation emerged where the applicant had to travel 700 Kms. away from Jaipur to SAL Hospital, Ahemadabad without there being any information to the competent authority or without there being referral by the Central Hospital, Jaipur. There was no need to shift the patient to such a long distance. The respondents further submit that a specific procedure has been provided for reimbursement of medical expenses in Railway Board's circular dated 31.01.2007 and as per the said circular, it is ex-facie clear that as per extent rule, a railway beneficiary must report to Railway Medical Officer for his/her and dependent's medical treatment. The authorised medical officer will make necessary arrangements for medical treatment through Railway Hospital/Govt. Hospital/Pvt. Recognized Hospital. It is only in exceptional situation, the CMDs of Zonal Railways

can obtain special permission from Railway Board for treatment in any Private Hospital on case to case basis. The respondents further submit that the applicant's claim for reimbursement of medical expenses has been re-scrutinized and the same had rightly been regretted/turned down vide letter dated 30.07.2016 which is strictly in consonance with law and there is no illegality or ambiguity in the same.

4. Heard the learned counsel for the parties and perused the material available on record of the respective parties and the documents annexed therewith.

5. It is undisputed that the applicant was admitted to Divisional Railway Hospital, Jodhpur on 3.6.2014. After his condition being serious, on the same day, he was referred to Central Hospital, NW Railway, Jaipur. Due to deteriorating and serious condition, the Central Hospital, NW Railway, Jaipur had referred the applicant on the same day to Heart and General Hospital, Jaipur which is recognized referral hospital by the NW Railway. It is also admitted that the applicant remained in the said hospital from 3.6.2014 to 13.6.2014. During the said period from 3.6.2014 to 13.6.2014, the condition of the applicant did not improve at the referral hospital i.e Heart and General Hospital, Jaipur, and the Doctors suggested to take him to the higher centre (Ann.A/3). Upon knowing the condition of the applicant, the relatives of the applicant shifted him to SAL-Hospital, Ahemabad as his condition was gradually deteriorating. At that moment, the relatives felt that life of the patient is important, so they have shifted him to SAL Hospital, Ahemabad. The applicant remained in the said hospital up to 24.6.2014 and he was discharged when his condition gradually improved. Such facts can be noted from the discharge summary of SAL Hospital dated 24.6.2014 (Ann.A/4). As per the summary report submitted by the applicant he was diagnosed as Septicemia, Pulmonary Embolism and Septic Shock. He was also suffering from other ailments connected to the said disease. Thus, it can be said that the present case was that of a case of emergency and priority of life safety was utmost necessary. Had the applicant waited for the procedure to be followed for referral hospital/super speciality hospital, it would certainly pose a threat to his life. At that critical situation, the Government cannot insist an employee to take himself treated at a specific or Government recognised hospital. The applicant in a bid to save his life did not absolve himself in the technicalities of the medical policy. Since it was an emergent case, the authorities should have taken a note of the same and could not have gone to the technicalities pertaining to travelling 700 Kms. from Jaipur to Ahemabad. As the critical ailment of the patient was established, the railway authorities in re-opinion cannot regret the claim as being not an emergent case vide their impugned order dated 30th July, 2016.

6. In support of his contention, the applicant has relied upon the judgment of the Hon'ble Supreme Court in the case of Surjit Singh vs. State of Punjab and Ors. (1996) 2 SCC 336. In the said case the Government was willing to pay the expenses for the bye-pass surgery to the extent of the cost of such treatment at AIIMS. The Hon'ble Apex Court held that though the appellant underwent a treatment that was specifically referred to in the policy, but not at a listed hospital. The Hon'ble Apex Court held not to deprive him of reimbursement altogether, but to allow reimbursement to the extent that the policy contemplated. The situation in Surjit Singh (supra) is somewhat similar to the present case. The applicant underwent his treatment at a non-recognised private hospital, whereas the Govt. policy recognises empanelled/recognised hospitals where the treatment should be taken by the applicant.

7. The applicant has also relied upon the judgment of this Bench in Gopi Lal Mali vs. UOI and Ors., OA No.252/2016 decided on 7th April, 2017

whereby the respondents were directed to scrutinize and pass the medical claim of the applicant for treatment as per prescribed rate of treatment in respect of such ailment in any recognized private hospital under CSMA/CGHS Rules. In the said case, the respondents had refused the medical reimbursement on the ground that it was not an emergent situation and, therefore, the same was rejected. The applicant has further relied on a recent judgment of the Hon'ble Rajasthan High Court at Jodhpur in DB Civil Writ Petition No.962/2014 decided on 6.4.2018 in the case of N.K.Khandelwal vs. UOI and Ors. wherein the Railway had refused the claim of the applicant for taking treatment in a private hospital and so no reimbursement was given. The Hon'ble High Court has observed that if the Tribunal would have looked into the aforementioned policy it would have dawned that irrespective of the situation being critical or irrespective of there being no emergency, pertaining to treatment taken in a private non recognized hospital, reimbursement at CGHS rate could have been made.

8. In support of their contention, the respondents have relied upon the case of Ramesh Prakash Mathur vs. UOI and Ors. decided by this Bench on 31.07.2018. The case of Ramesh Prakash Mathur referred by the respondents cannot be relied in the present case since the facts and circumstances of that case were completely different.

9. In the present case, the respondents denied the claim of the applicant vide impugned order dated 30th July, 2016 on the ground that as per discharge summary, there was no written order where the Doctor has advised him to go to another higher centre for future treatment. The patient got himself discharged and went to SAL Hospital, Ahmedabad by travelling 700 Kms. by road in Ambulance on 13.6.2014, though Jaipur had also super speciality hospital for treatment of such disease. They have stated that the condition of the patient was stable with normal vitals at the time of discharge, though the patient contended that his condition was deteriorating and leading to life threatening situation. According to them, thus emergent situation and critical illness of the patient could not be established and therefore they had regretted the case. I find no justification in these submissions made by the respondents in the impugned order and looking to the facts and circumstances, the present case falls under the category of emergency. The applicant had taken treatment in Jaipur referral hospital for 10 days and still his condition could not be improved, thus in order to save his life, his relatives have rightly shifted him to the hospital, which they believed is a hospital where life of the patient could be saved. In a recent judgment of the Hon'ble Supreme Court decided on 13.4.2018 in WP (Civil) No.694/2015, Shiv Kant Jha vs. UOI reported in 2018 (3) SLR 328, it has been observed that right to medical claim cannot be denied merely because name of the hospital is not included in the Government order. It is only to be seen that the claimant actually took the treatment and the said fact is supported by records only by Doctors.

8. In view of above discussions, the impugned order dated 30.7.2016 (Ann.A/1) is quashed. The respondents are directed to scrutinise and pass appropriate order for reimbursement of the medical claim of the applicant as per the prescribed rules treating it as an emergency case. The said exercise should be done within a period of three months from the date of receipt of a copy of this order. However, considering the entire facts and circumstances in totality I am not inclined to grant any interest on the expenses of medical bill. The OA is allowed to the above extent. No costs.

(HINA P.SHAH)
Member (J)

R/

