

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH**

...

Original Application No.290/00504/2016

Reserved on : 27.09.2018

Pronounced on : 12.10.2018

CORAM:

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

Sumer Singh Champawat s/o of Shri Ratan Singh (Bamnu), aged about 50 years, resident of 496, New BJS Colony, Jodhpur at present employed on the post of Dy. Manager Marketing, Central Wool Development Board, Jodhpur

...Applicant

(By Advocate: Self)

Versus

1. Union of India through the Secretary, Ministry of Textile, Udhog Bhawan, New Delhi.
2. Central Wool Development Board (CWDB) through its Chairman CWDB, C-3, Shastri Nagar, Jodhpur
3. Executive Director, Central Wool Development Board, C-3, Shastri Nagar, Jodhpur
4. Sh. Jugal Chaudhary, Administrative Officer, Central Wool Development Board, C-3, Shastri Nagar, Jodhpur

...Respondents

(By Advocate: Shri Rakesh Arora)

ORDER

The applicant has filed the present OA u/s 19 of the Administrative Tribunals Act, 1985 praying for the following reliefs:

- (i) That the respondents Ministry may kindly be directed to approve full reimbursement and pay remaining amount of Rs. 180005.91 for treatment as agreed and recommended by the Governing Body CWDB to the Ministry of Textiles with 12% interest within four week period.
- (ii) That the respondents may kindly be directed to made reimbursement of remaining amount for treatment as entitled under CS (MA) Rules for Rs. 178005.91 (Rs. 383334.91-Rs.205329) with 12% interest within four weeks.
- (iii) That the respondents may kindly be directed that if the payment is delayed beyond the period of four week, interest shall enhanced to 18% per annum.
- (iv) Respondent may kindly be directed to undertake an exercise for identifying the official/officials responsible for the delay in reimbursement of the applicant's medical claim and burden with on account of the unjustified delay shall be recovered from such responsible official/officials.
- (v) That the applicant has financially harassed by the 5th respondent with prejudice and malifide intension so costs of this application may be awarded.
- (vi) That any other direction, or orders, may be passed in favour of the applicant which may be deemed just and proper under the facts and circumstances

2. Brief facts of the case, as stated by the applicant, are as under:-

The applicant's wife fell ill and in emergent condition she was admitted in the nearest hospital namely Rajdadisa Hospital, Jodhpur. She had undergone treatment in the said hospital from 16.3.2014 to 19.3.2014 and thereafter shifted to Sterling Hospital at Ahmedabad where she had undertaken treatment from 19.3.2014 to 28.3.2014 and was discharged from the said hospital. Again after few days, his wife became serious and was initially treated at Government Hospital, Jodhpur and in a serious and critical

condition she was referred for treatment to the Institute of Liver and Biliary Science (ILBS), New Delhi. It is the case of the applicant that it is in emergent condition that his wife had taken treatment at Rajdadisa Hospital, Jodhpur and claimed for reimbursement of medical bill amounting to Rs. 41,440/-. Thereafter his wife had taken treatment at Sterling Hospital, Ahmedabad and the applicant submitted medical bill amounting to Rs. 1,51,539/- to the respondents. The applicant avers that he has taken permission from Central Wool Development Board (CWDB) for treatment in Ahmedabad through his leave application and from Collector, Jodhpur for relieving him from election duty for taking treatment at Ahmedabad. The applicant also submitted medical reimbursement bill for treatment in Government Mahatama Gandhi Hospital, Jodhpur for Rs. 10,397.42 and Rs. 803.50. The applicant has also submitted medical reimbursement bill of Rs. 1,90,355.91 for her treatment in ILBS, New Delhi. It is the case of the applicant that since the bills were not cleared, he submitted several reminders for payment of the said bills. It is the submission of the applicant that he has been reimbursed with Rs. 8,377/- and Rs. 51,366/- against two bills of Rajdadisa Hospital and Sterling Hospital, but with the

prejudice attitude and still Rs. 1,38,097/- were deducted/disallowed from the said bills. The applicant further stated that that matter was put up before the 34th Governing Body of CWDB which had recommended his case to the Ministry of Textile for taking sympathetic consideration of his medical claim. The case of the applicant was also recommended in 35th Governing Body meeting of CWDB but still his case is pending for reimbursement of his medical claim. It was also stated that the case of the applicant to be settled on priority basis, but from 2014, no steps has been taken by the respondents for clearing his medical reimbursement bills. Therefore, the applicant has approached this Tribunal for claiming reimbursement of Rs. 1,80,005.91 as agreed and recommended by the Governing Body of CWDB along with 12 % interest.

3. After issue of notice, the respondents have filed reply dated 24.5.2017. The respondents state that the applicant's wife was admitted in Rajdadisa Hospital, Jodhpur under the pretext that she being critically ill and in serious condition. The respondents have denied the fact that the Rajdadisa Hospital referred the case of the applicant to Sterling Hospital, Ahmedabad. It is clear that the applicant got his wife discharged on his own request from the said hospital,

which is clear from release/discharge certificate of the said hospital. Therefore, the submission of the applicant about reference being made from the Rajdadisa Hospital to Sterling Hospital cannot be agreed. It is also pertinent to mention here that as per CS (MA) Rules, permission can be granted by the Head of the Ministry/Department/Office to the Central Government employees, members of family to obtain medical services from any of the private hospital, recognized under the CGHS/non 24 CGHS covered cities also. The Central Government employees and members of their families may be permitted to avail medical facilities in any of the Government Hospitals. In view of the same, there is no objection if the Central Government employee also undertakes treatment in any of the hospital for which the hospitals are already recognized by the concerned state. As far as the applicant's wife being admitted to Sterling Hospital, it is clear that the applicant himself got his wife admitted at Sterling Hospital and no reference was made by the Rajdadisa Hospital. The Controlling Officer of the respondents have considered reimbursement of medical claim submitted by the applicant and reimbursed the claim as per rules and has released an amount of Rs. 51,336/- to the applicant against the total claim of Rs. 1,51,539/-. As

far as treatment taken in Government Hospital, Jodhpur and later on treatment taken in ILBS Hospital, on being referred by the Govt. Doctor at Jodhpur, the bills submitted for the said treatment amounting to Rs. 10,937/- and Rs. 803/- were settled by the Board and an amount of Rs. 9,098/- and 439/- was reimbursed as per rules. As far as treatment taken at ILBS Hospital is concerned, total medical bill of Rs. 1,93,055/- was submitted for reimbursement and the Board has settled the claim and released Rs. 1,45,586/- as per rules. The Board has reimbursed the medical bills after proper checking by Accounts Section as per norms of the Government of India. The applicant was well aware that full reimbursement of all bills is not as per rules, therefore, it is treated as a special case under emergency. The Governing Body also decided to recommend the matter to MOT to consider the case sympathetically as per admissible rules. The applicant got treatment outside the State without any permission of DMO and without reference by the Hospital at Jodhpur while getting his wife admitted in Sterling Hospital, Ahmedabad. It is the case of the respondents that whatever admissible amount due to the applicant has been reimbursed to him as per rules.

4. The applicant has filed rejoinder on 3.7.2017 and stated that calculation and entitlement as per CS (MA) Rules is the duty of DDO/AO of CWDB and the AO/DDO is calculating entitlement by ignoring CS (MA) Rules in the case of the applicant. It is only due to the prejudiced attitude of the AO/DDO wrong calculations has been proposed/recommended to the Executive Director and the same was approved by the respondents being the prejudiced officer. As per Service Regulation Rules 1994 of CWDB, Central Civil Medical Attendance (MA) Rules will be applicable to the CWDB employees to the extent not specifically covered by the order of the Board or by specific decision of the Governing Body of CWDB/Board. The applicant further stated that the Governing Body of the CWDB had agreed to approve the full reimbursement to the applicant as per CWDB rules and its decision is reproduced below:-

"After detail discussion, it was decided to recommend the matter to the MOT to consider the case, sympathetically, as per admissible rules in CWDB/GOI."

However, the respondents have not forwarded the matter to MOT and this act of the respondents is covered under misconduct and harassment to the applicant. The

applicant further relied on the OM dated 11th June, 2013 (Ann.A/5) and stated that the said OM is completely covering the case of the applicant. He also referred to OM dated 16th November, 2010 (Ann.A/6) and relied on para 2.3 which clearly state that "However, there are certain procedures where there is no prescribed rate under CGHS. Similarly, there are medical emergencies where the treatment is mainly conservative. The admissible amount in such cases is calculated item wise, room rent, procedure, investigations etc., therefore, it now been decided to revise the rate applicable for room rent (Accommodation Charges) for different categories of wards as given below:- Private ward @ Rs. 3000/- per day as per applicable basic pay." According to the said OM, the applicant has not been paid the room rent /accommodation charges of Rs. 4,500/- for three days in the bill of Rs. 8,377/-, which shows the prejudice attitude of the respondents towards the applicant.

It is the submission of the applicant that the certificate submitted by the applicant clearly stated that the patient was in a serious condition and considered for medical emergency for higher treatment in specialities hospital approved for general purpose under CGHS at Ahmedabad. Therefore, the patient was discharged on 19.3.2014 from

Rajdadisa Hospital and shifted to Sterling Hospital, Ahmedabad by special ambulance of the hospital on 19.3.2014 in serious condition. It is the claim of the applicant that the respondents have not paid several charges i.e. room rent/accommodation charges of Rs. 27,000/-, Doctors visiting fee of Rs. 26,800/-, procedure charges of Rs. 13500/- nursing care charges of Rs. 17,265/- biopsy surgeon fee of Rs. 13,500/-, medicine cost of Rs. 6,181/- etc. of total of Rs. 1,10,548 for treatment taken at Sterling Hospital, Ahmedabad. The applicant, therefore, states that as per several judgments of the Hon'ble High Court and Hon'ble Supreme Court, he is entitled for full reimbursement and since the same has not been paid to him entirely, he is also due for interest on the same. He also prayed that a cost of Rs. 50 lakhs may be imposed for mental agony and irreparable loss suffered in view of the Apex Court judgment in various cases of similar nature.

5. The applicant has also filed additional affidavit dated 6.4.2018 stating that his case be reconsidered for reimbursement as per admissible rules. He has further stated that CWDB may re-examine the reimbursement of medical claim carefully with reference to medical rules in

force. He further stated that the treatment has been undertaken at Sterling Hospital, Ahmedabad which is CGHS approved hospital at Ahmedabad and all CGHS hospital are recognized under CS(MA) Rules. Therefore, he is entitled for full medical reimbursement.

6. Heard the applicant present in person and Shri Rakesh Arora, counsel for respondent Nos. 3 and 4 and perused the material available on record.

7. It is the claim of the applicant that as per Ann.A/11 dated 10.12.2014 out of the total medical reimbursement claim amounting to Rs. 41,440/- for treatment at Rajdadisa Hospital, Jodhpur, an amount of Rs. 8,377/- has been settled by the respondents. For the treatment taken at Sterling Hospital, Ahmedabad as against the claim of Rs. 1,51,539/-, an amount of Rs. 51,366/- only has been settled by the respondents. Therefore, his non-settled claim amounting to Rs. 33,730 + 1,04,367 = Rs. 1,38,097/- is still to be reimbursed. He further states that as per Ann.A/19 dated 15.6.2017 direction was given to expedite the case of the applicant and to consider the same as per admissible rules. This letter was sent by the, Under Secretary, of Ministry of Textile to the Executive Director

CWDB, Jodhpur for settling his medical claim. It is the claim of the applicant that 34th Governing Body meeting held on 21.8.2015 had recommended his case for medical reimbursement and also in the 35th meeting of the Governing Body held on 29.9.2015 the case of the applicant was recommended and as per sub-clause-2(v), it was clearly stated to settle such type of matter on priority basis. The Board forwarded the non-settled matter of medical claim bills to MOT for further necessary direction and also issued reminder letter, but no response has been received from the MOT till date. The applicant relied on several judgements and stated that as per these judgments, he is entitled for full medical reimbursement with interest, which are:-

- i. The Regional P.F.Commissioner-1 vs. C.K.Nagendra Prasad decided on 13.6.2013 by the High Court of Karnataka at Bangalore.
- ii. State of Punjab and Ors. vs. Mohinder Singh Chawla etc. in Civil Appeal Nos. 16980-81 of 1996 decided by the Hon'ble Apex Court on 17th December, 1996.
- iii. Delhi High Court judgment in the case of V.K.Gupta vs. Union of India and Anr. decided on 15th April, 2002, reported in 2003 (1) SLJ 195 Delhi.
- iv. Madras High Court judgment in the case of E.V.Kumar vs. Union of India in WP No.10392 of 1996 and WMP No.13753 of 1996 decided on 28th July, 2003

- v. Delhi High Court judgment in the case of Milap Singh vs. Union of India, CWP No.4415 of 2002 decided on 13.7.2004
- vi. Madras High Court judgment in WP No.14216 of 2006 in V.Jayabalan vs. Secretary to Government decided on 15.9.2009

He also relied on several other judgments in this regard and also referred the M/o Health and Family Welfare, D/o Health and FW OM dated 20th February, 2008 stating that as per the said OM, even if the treatment is taken in hospitals outside district/state but within India, he is entitled for medical reimbursement. It is his case that he has taken treatment only after getting permission from the CWDB, through his leave application and therefore, disallowing his total claim for medical reimbursement is unjustified. He further contended that he is entitled to all charges including registration fee, accommodation charges, Doctor's visiting fee/consultation charges, procedure charges, surgery charges, nursing care and charges for its service, cost of medicines, lab testing charges, to and fro local conveyance/taxi charges/mileage allowance for patient etc. as per CS (MA) Rules. As his case was recommended by the Governing Body of CWDB in its 34th and 35th meeting, he is entitled for full medical reimbursement, but

it is only due to the ulterior motives and deep conspiracy to harass the applicant, such payment has not been done.

8. It is the case of the respondents that there was no case of emergency and the applicant could have taken treatment at Govt. Hospital, Jodhpur, but he on its own has taken treatment of his wife at Rajdadisa Hospital, Jodhpur. He himself got his wife discharged and admitted in Sterling Hospital, Ahmedabad. The discharge ticket clearly shows that Rajdadisa Hospital has not referred the case for further treatment to Sterling Hospital, Ahmedabad. According to the respondents, the discharge certificate has been obtained at a later date of treatment. The respondents state that there is no case of emergency established and though the treatment was taken at Rajdadisa Hospital on 16.3.2014, but the said certificate was obtained only on 24th May, 2014. There was no case of any reference by the said hospital which is also clear from the certificate of Sterling Hospital where the applicant's wife was admitted from 19.3.2014 to 28.3.2014 and the certificate of discharge was obtained on 11.6.2014. It is the case of the respondents that the Governing Body in its meeting had only recommended the case of the applicant but the amount was not duly sanctioned. It is therefore, the case

of the respondents that with regard to the treatment taken by the applicant at Mahatama Gandhi Hospital, Jodhpur and ILBS Hospital, New Delhi, the claim has already been settled and payment has already been made to the applicant. Also pertaining to the payment to be done in case of Rajdadisa Hospital and Sterling Hospital, the entitled amount has been paid and therefore, the request of the applicant for full medical reimbursement is denied as the claim of the applicant has been settled as per rules. Pertaining to the judgments relied by the applicant, the respondents state that the said judgments are not applicable to the case of the applicant as they have made payment for medical reimbursement and therefore, no further amount is due to be paid to the applicant for treatment taken in a private hospital without being referred by the medical authorities. The respondents also state that the OM pertaining to treatment taken outside district/state dated 18/29th July, 1960 has been deleted vide OM dated 20th February, 2008, but for the treatment taken outside district/state, permission is required to be obtained from the competent authority and, therefore, for the treatment taken at Sterling Hospital, the amount as per his entitlement has already been paid.

9. Considered the rival contentions of both the parties.

10. It is clear that the treatment has been taken by the applicant at Rajdadisa Hospital, Jodhpur, which is a private hospital, and the respondents have reimbursed the claim of the applicant to the extent of cost of medicines, x-ray and pathology lab, but cost of ambulance charges, bed charges and outside lab charges has not been reimbursed. Thereafter the applicant got his wife discharged and admitted her to Sterling Hospital, Ahmedabad on his own without any reference of the said hospital or permission of the competent authority and the respondents have reimbursed the cost of medicine, lab, sonography charges, endoscopy cost etc. and have not reimbursed TA bill, accommodation charges, Doctors visiting fee, procedure charges, nursing care biopsy surgeon fee. As per the recommendation of the 34th and 35th meeting of the Governing Body of the CWDB, the Ministry of Textile has taken up the matter and accordingly, the Executive Director has forwarded the matter to the Ministry of Textile and as per the last letter dated 12.9.2018 written by the Executive Director to the Under Secretary (W&WT), Ministry of Textile the matter is under consideration between the Executive Director, CWDB, Jodhpur and the Ministry of Textile in this

regard. It appears that the matter is yet not decided due to pending litigation. The Ministry of Textile was required to take a final decision in the matter at the earliest on the pending issue of medical reimbursement. Since the matter is not finally decided by the competent authority at the level of the Ministry of Textile regarding the reimbursement of medical claim of the applicant, without going into other aspects of the matter at this stage, the competent authority of the Ministry of Textile is directed to take a final view in the matter on priority basis and take appropriate decision as per rules. So far as medical bills pertaining to treatment taken at Mahatama Gandhi Hospital, Jodhpur and ILBS Hospital, New Delhi are concerned, I do not find any infirmity as the respondents have already paid the entitled amount to the applicant.

11. OA stands disposed of in above terms and directions.

No order as to costs.

(HINA P.SHAH)
MEMBER (J)

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