

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

No. OA 350/01455/2015

Present: Hon'ble Ms. Bidisha Banerjee, Judicial Member

PADMABATI MITRA

VS

UNION OF INDIA & ORS.

For the applicant : Mr.S.Mukherjee, counsel

For the respondents : Mr.B.B.Chatterjee, counsel

Order on : 31.8.16.

O R D E R

This matter is taken up in the Single Bench in terms of Appendix VIII of Rule 154 of CAT Rules of Practice, as no complicated question of law is involved, and with the consent of both sides.

2. Ld. Counsels were heard and materials on record were perused.

3. It transpired that against a medical bill of Rs.46,000/- the respondents have paid Rs.25,000/- and odds in October 2015 as admissible amount and denied the rest on the ground that the applicant who was suffering from osteoporosis which was not curable but endurable, did not require the drugs, for which the reimbursement was sought for on an emergency basis. The applicant has prayed for reimbursement of balance amount.

3. Ld. Counsel for the respondents vehemently opposing the claim for the balance payment submitted that the applicant was prescribed certain injection to be administered once in a month which costs Rs.5500/- each dose. The respondents found the same to be not reimbursable since it was prescribed on OPD basis whereas she had an IPD card.

4. Therefore the question that fell for consideration is whether the applicant would be entitled to reimburse in full or with restriction in terms of CGHS Rules.

5. Ld. Counsel for the applicant during the course of hearing cited the following authorities :

- (i) The Hon'ble Apex Court in **Surjit Singh -vs- State of Punjab [1996 (2) SCC 336]** rendered on 31.1.96 in the case of open heart surgery, opined the following :

"The appellant therefore had the right to take steps in self preservation. He did not have to stand in queue before the Medical Board the manning and assembling of which, bare-facedly, makes its meetings difficult to happen. The appellant also did not have to stand in queue in the government hospital of AIIMS and could go elsewhere to an alternate hospital as per policy when the State itself has brought the Escorts on the recognised list, it is futile for it to contend that the appellant could in no event have gone to the Escorts and his claim cannot on that basis be allowed, on suppositions. We think to the contrary. In the facts and circumstances, had the appellant remained in India, he could have gone to the escorts like many others did, to save his life. But instead he has done that in London incurring considerable expense. The doctors causing his operation there are presumed to have done so as one essential and timely. On that hypothesis, it is fair and just that the respondents pay to the appellant the rates admissible as per Escorts. The claim of the appellant having been found valid, the question posed at the outset is answered in the affirmative. Of course the sum of Rs.40,000/- already paid to the appellant would have to be adjusted in computation. Since the appellant did not have his claim dealt with in the High Court in the manner it has been projected now in this Court, we do not grant him any interest for the intervening period, even though prayed for., Let the difference be paid to the appellant within two months positively. The appeal is accordingly allowed. There need be no order as to costs."

- (ii) In **OA 377/08 (Jai Narayan Sharma -vs- UOI & Ors.)** rendered by the Principal Bench of CAT, it was held

"19. To approach a nearest hospital in case of real emergency, which threatens life, is a normal human tendency. One cannot wait for all the methodology and formal procedures to complete before the treatment is administered. What is paramount is that by immediate treatment one's life is saved. The above view was taken by the applicant for his wife and she was admitted to St. Stephens Hospital, New Delhi which was very close to his residence."

20. The way the respondents have dealt with the case of the applicant for medical reimbursement is not only far from reasonableness, sympathy but also cruel to the applicant, as the respondents have not considered the package rates and the entitlement thereof to the applicant in its true perspective and as per their own OM."

21. Resultantly, the OA is allowed. Impugned order is set aside. Respondents are directed to reimburse to the applicant the expenditure incurred by him on the medical treatment of his wife. This shall be done within a period of two months from the date of receipt of a copy of this order. However, they may deduct the amount already paid to the applicant. No costs."

(iii) **OA 515/11 (Jerom Kujur -vs- UOI & Ors.)** rendered on 26.2.15 by the

Jabalpur Bench of CAT wherein the following order was passed :

"12. In this view of the matter, the competent authority of respondents is directed to re-examine the medical reimbursement claim submitted by the applicant for the treatment in question, while keeping in view that the applicant was admitted in emergency while on temporary duty and the earlier estimates of Rs.1,75,000/- for treatment at Apollo Hospital Bilaspur were duly approved by the respondents. This exercise, including payment of any admissible amount in excess of what is already sanctioned to him, should be completed by the respondents within a period of two months from the date of communication of this order. In the facts and circumstances of the case, the parties are left to bear their own costs."

(iv) In **Pratap Singh -vs- Director, Subsidiary..... [2007 (2) SLJ 185 CAT]**

rendered on 23.8.06 in a case where the CGHS beneficiary due to a severe heart attack underwent a bypass surgery and remained as an indoor patient incurring an expenditure of Rs.1,50,000/-. His claim was rejected on the ground that CS (MA) Rules were not applicable to retired Government officials.

The Tribunal had held the following:

"I am satisfied that rejection of the claim of applicant, who as a fundamental right to be looked after in the matter of his health and as a consequence thereof to be reimbursed medical expenses incurred to save his life, which has been wrongly denied to him. The OA is accordingly allowed. Respondents are directed to reimburse to applicant full amount of medical claim along with interest at the rate of 6% per annum from the date of submission of the claim till it is actually paid, within a period of two months from the date of receipt of a copy of this order. No costs."

(v) **OA 2345/07 (Zainuddin -vs- UOI & Ors.)** by the Principal Bench where

the wife of the employee met with an accident and sustained injuries in head and broken ribs, the respondents were directed to grant full reimbursement as she was taken to a private hospital which was nearest to save her life.

6 It could be noted that none of the decisions cited by the Id. Counsel for the applicant would apply to the present fact and situation in as much as the present applicant was reimbursed the hospital charges to the extent admissible but denied reimbursement towards cost of medicines on the discharge certificate of the hospital. She was infact denied the cost of 'Terifrac' 22U which had to be administered every month for six months. However, the respondents in their reply have stated that another medical reimbursement claim of

Rs.47,693/- received on 21.9.15 is being processed after the applicant submitted all the required documents.

7. Therefore the OA is disposed of with a direction upon the respondents to release the admissible amount as early as possible preferably within one month from the date of communication of this order. No order is passed as to costs.

(BIDISHA BANERJEE)
MEMBER (J)

in