

**CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH, CUTTACK**

**O.A No.140 of 2012**

**Present :   Hon'ble Mr. Gokul Chandra Pati, Member(A)**

1. Baishnab Charan Satpathy, (Since deceased),
2. (a) Manorama Satpathy, aged about 61 years, W/o. Late Baishnab Charan Satpathy,  
(b) Durga Prasanna Satpahty, aged about 39 years, S/o.. Late Baishnab Charan Satpathy, Both are resident of Vill. Ambahata Sasan, P.O. Ratina, Via. Badahata, Trilochanpur, P.S. Khaira, Dist. Balasore-756 115.

.....Applicants.

**VERSUS**

1. Union of India represented through Controller of Defence Accounts, Rajendrapath, Patna-19.
2. Garrison Engineer, (Independent) Research & Development, At/P.O. Cjhandipur, Dist. Balasore-756025.
3. Chief Engineer, (R&D) Head Quarters, Military Engineering Service, Probyn Road, New Delhi-54

.....Respondents.

For the applicant     :     Mr. S.C. Samantray, counsel

For the respondents :     Mr. D.K. Mallick, counsel

Heard & reserved on:   15.02.2019

Date of order            :

**O R D E R**

**PER MR. GOKUL CHANDRA PATI:-**

The O.A. is filed seeking following reliefs:-

“Under the circumstances the applicants prays that this Hon'ble Tribunal be pleased to admit the application;

And on hearing the parties be pleased to set aside the recovery of Rs.1,33,943/- vide Annexure-6 and further be pleased to direct the respondents to sanction Rs.8,296/- towards medical reimbursement.”

2. The original applicant Sri Baishnab Charan Satpathy (referred herein after as applicant) was working as a Fitter General Mechanic (High Skilled) under the Respondents since 1978 till his retirement on superannuation as on 30.11.2011. Due to cardiac ailments, he was hospitalized in district hospital, Balasore and his case was referred for treatment to S.C.B. Medical College & Hospital, Cuttack then to Kalinga hospital, Bhubaneswar, which is approved hospital of the

-2-

Respondents. For the purpose of his treatment, based on the estimates of Rs.3,87,000/- from Kalinga Hospital, the medical advance was sanctioned in favour of the applicant for treatment at Kalinga Hospital. The applicant underwent the treatment from 27.01.2010 till 02.02.2010. Then he submitted the bill to the Respondents for reimbursement.

3. The grievance of the applicant is that although the claim for medical reimbursement submitted by him as per rules was for an amount of Rs.1,42,239 including Rs.1,33,943 in respect of the major implants, respondents have not approved the amount for which a part of the advance is outstanding against him. The applicant retired on 30.11.2011 and the retirement dues were not released due to this pending issue as directed by the Respondent No.1. Being aggrieved, the present O.A. has been filed for settlement of his pending claim of Rs.1,42,239/-.

4. The Respondents have filed the counter, stating that as against the advance of Rs.3,48,300/- sanctioned to the applicant for the treatment, the claim submitted

by him was passed for Rs.1,90,429/- as per rules and the applicant was requested to refund Rs.1,57,871/-. But the applicant had deposited an amount of Rs.23,928 towards the excess advance. Hence, the balance amount of Rs.1,33,943 is outstanding for recovery from the applicant as per rules. In the counter the details of the amount claimed and amount admitted by the Respondents are furnished in Para-5 (g) of the counter. It is seen from Para 5(g) of the counter that towards the cost of PTCA and Stents, an amount of Rs.1,45,500/- was not admitted by the Respondents. For the reasons for not admitting the claimed amount, it is mentioned in the counter in Para 5 as under :-

“(j) That, in reply to the averments made in paragraph-5(a) of the OA it is submitted that as the petitioner’s claim has been admitted by Respondent-1 as per the package and item wise rates as notified by the Govt. He is not entitled to the excess amount charged by the hospital and the same is to be borne by the petitioner as per procedure followed in Central Govt. rules.

(k) That, in reply to the averments made in paragraph-5(b) of the OA it is submitted that it may be reiterated that it has clearly mentioned in the sanction, accorded by the Chief Engineer for medical advance that sanction is subject to item wise ceiling of the expenditure as laid down from time to time. Accordingly the final bill preferred by the individual has been admitted by Respondent-1 as per the notified package rates and item wise rates. Hence the contention put forth by the individual is not tenable.”

5. Learned Counsels for the applicant and respondents were heard in the matter. It was mentioned by the Learned Counsel for the applicant that during the pendency of the O.A. the original applicant expired. Hence, his legal heirs have been substituted in the O.A. A copy of the order dated 05.04.2005 passed by the Tribunal (Cuttack Bench) in O.A. No.947/2003 in the case of Somanath Saw vs.

Union of India & Ors. has been filed by the applicant’s counsel in support of the applicant’s case, stating that the case of the applicant in that O.A. was exactly similar to the present case and in that case the Tribunal had allowed the O.A.

with full reimbursement of the claim of the applicant. He submitted that the applicant in the present O.A. is also entitled for the similar relief.

6. The Respondents reiterated the argument and submitted that the claim was passed restricting the cost of treatment to the approved package rate, which was circulated by the Respondents and was binding on the employees and respondents.

7. It is seen from the order dated 05.04.2005 passed in O.A. No.947/2003 that the wife of the applicant in that O.A. had undergone treatment in Apollo Hospital, Madras which had initially estimated the cost of treatment to be from Rs.1.4 lakhs to Rs.1.5 lakhs. Against this estimate, the Respondents' - Department sanctioned 80% estimated cost as advance. After the treatment, the medical bills were submitted but no action was taken for settling the claims. The applicant in O.A. No.947/2003 had filed another O.A. which was disposed of with a direction to the Respondents to reconsider the claim of the applicant within three months. Thereafter, Rs.1.2 lakh was sanctioned as against the medical reimbursement claim of Rs.1.44lakh and an amount of Rs.12,246/- was ordered to be recovered from the applicant. The stand of the Respondents was that as per the approved package deal for the treatment, the amount admissible was 70,950/- against which Rs.67,000/- was allowed. After reviewing the judgments in similar cases, Tribunal held in O.A. No.947/2003 vide order dated 05.04.2005 as under:-

“6. Recently, the Principal Bench in the case of Pramod Kumar Vrs. Union of India and Others (O.A. No.966 of 2004 decided on 21.02.2005) taking into consideration various judgments of the Hon'ble Supreme Court decided that the Respondents are obliged to pay the entire amount claimed by the Hospital in that case. In the instant case, the applicant has spent Rs.1,44,000/- but he has preferred the bill of Rs.1,20,050/-. The Respondents have taken the decision that the amount paid by them was in excess and, therefore, Rs.16,000/- was ordered to be recovered. In view of the judgments referred to above, the decision taken by the Respondents for not sanctioning the amount is unjustified. Therefore, the impugned order of recovery dated 06.12.2001 is held to be illegal. Since the

Respondents have already recovered the amount of Rs.10,000/- from the salary of the applicant, the same is also held to be highly illegal and unjustified.

7. For the foregoing reasons and on the basis of the various judgments made by the law, we are of the considered opinion that the applicant is entitled to receive the full amount which was spent for treatment of his wife. Since he has claimed less amount and the same has already been sanctioned, the direction thereafter issued by the respondents to refund the excess amount is held to be illegal. In the circumstances, the Applicant is entitled for the amount claimed by him. Accordingly we quash the impugned order of recovery and direct the Respondents to refund the amount already recovered within a period of thirty (30) days from the date of receipt of this order.”

-4-

8. On perusal of the order dated 05.04.2005 it shows that the case of the present Applicant is squarely covered by the order dated 05.04.2005 of the Tribunal passed in O.A. No.947/2003. The Respondents are to reimburse the cost of treatment in full particularly since the estimate for treatment as furnished by Kalinga hospital, was approved by the Respondents before sanctioning the medical advance to the applicant. If the package rate was agreed by the hospital then the reason for not informing the same to the applicant as well as to Kalinga hospital while sanctioning the medical advance is not clear. The Respondents could have taken to find out the reason for claiming higher amount than the approved package rate after receiving the bills/claim. Since necessary steps have not been taken and there seems to be a communication gap between the hospital concerned and the Respondents in the matter of approved package rates, it would be unfair to hold the employee responsible, particularly after his retirement from service.

9. In the circumstances, the O.A. is allowed and the impugned order dated 09.02.2011 (Annexure-A/6) directing the applicant to refund Rs.1,33,943 is set aside and quashed. The Respondents/competent authority are directed to release the applicant's retirement dues if withheld on account of the order dated 09.02.2011 in full within two months from the date of receipt of a copy of this

order. It is made clear that if the amount withheld is not released within the time as above, Respondents shall be liable to pay an interest from the date of retirement of the applicant (i.e., from 30.11.2011) till the date of payment @ 9% per annum and the interest paid shall be recovered as per law from the officials found by the respondents for such delay in releasing balance retirement benefits to the applicant's legal heirs.

10. The O.A. is allowed as above with no order as to costs.

(GOKUL CHANDRA PATI)  
MEMBER(Admn.)

K.B.