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**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

Original Application No.180/00138/2018

Monday, this the 25th day of February, 2019

Hon'ble Mr.Ashish Kalia, Judicial Member

Nandhakumar.C, aged 60 years
S/o P.S Nair (Late)
Rtd. Personal Assistant Alathur HO
Residing at Sreenandanam, Vattekkad P.O
Kollengode, Palakkad – 678 506
Mob: 9995680447

..... **Applicant**

(By Advocate – Mr.U.Balagangadharan)

V e r s u s

- 1 Union of India, represented by the
Secretary, Ministry of Communications & IT
Department of Post
Dak Bhavan, New Delhi – 110 001
2. The Chief Post Master General
Kerala Circle
Thiruvananthapuram – 695 001
3. The Director of Postal Services
Northern Region
Calicut – 673 001
4. The Senior Superintendent of Post Offices
Palakkad Division
Palakkad – 678 001

..... **Respondents**

(By Advocate – Mr.K.C.Muraleedharan,ACGSC)

This Original Application having been heard on 25.2.2019, the Tribunal on the same day delivered the following:

O R D E R (ORAL)

Per: Mr.Ashish Kalia, Judicial Member

The reliefs sought in the Original Application are as follows:

“(i) Call for the records leading to Anx.A8 & Anx.A10 and set aside the same as legally and factually unsustainable.

(ii) Direct the 4th respondent to pass the disburse medical reimbursement amount as claimed in Anx.A3 with interest @ 18% p.a.

(iii) Declare that the applicant is entitled to get reimbursement as per Anx. A3 M.R Claim with interest

(iv) Such other reliefs that the Hon'ble Tribunal deem fit in the facts and circumstances of the case. ”

2. Applicant was a Postal Assistant in Postal Service and he retired on 30.11.2017. While in service he preferred a medical reimbursement claim in respect of his son who met with an accident on 8.6.2014. Applicant treated his son in a private hospital where the facility of trauma care was available and no other government hospital was available from the site of occurrence of accident. Applicant submitted medical reimbursement claims as provided under CS(MA) Rules within stipulated time. The competent authority was also accorded post facto sanction for the treatment undergone in a private hospital on the advice of the Regional Office. However, without any notice and without stating any reason, the approval accorded by the 4th respondent has been varied without any authority of law. Accordingly, medical reimbursement claim was rejected. Hence he approached this Tribunal for redressal of his grievances.

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3. Notices were issued and the respondents put their appearance through their counsel and filed reply statement. The sole objection taken by the respondents in the reply statement is that the applicant has got approval not from the competent authority. However, on perusal of the records it has been found that the Senior Superintendent of Post Offices had issued Annexure A-7 post facto approval of the treatment and according to the respondents he is not the competent authority.

4. After hearing both sides, this Tribunal is of the view that the medical reimbursement claim in terms of the Apex Court decision in ***Shiva Kant Jha v. Union of India & Ors*** in W.P(C) 694 of 2015 dated 13.4.2018, the technicalities should not come in the way of reimbursement during serious emergencies. It is not the case of the respondents that the applicant was not in a serious condition. In view of this, applicant's claim for reimbursement for the treatment in a private hospital at an emergency condition has to be considered. Hence the applicant's claim shall be paid within thirty days from the date of receipt of a copy of this order.

5. The Original Application is disposed of as above. No costs.

(ASHISH KALIA)
JUDICIAL MEMBER

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List of Annexures

- Annexure A1 - True copy of the Discharge Summery dated 17.6.14 issued by Paalana Hospital
- Annexure A2 - True copy of the letter dated 9.14 of the applicant
- Annexure A3 - True copy of the MR claim application dated 15.9.2014
- Annexure A4 - True copy of the letter No.E5/Med Dlgs dated 28.4.2015 of the 4th respondent
- Annexure A5 - True copy of the letter dated 14.5.2015 of the applicant
- Annexure A6 - True copies of the letter No.E5/Med Dlgs dated 7.10.2015 of the 4th respondent
- Annexure A6(a) - True copy of the letter dated 5.12.2015 of the applicant to the 4th respondent
- Annexure A7 - True copy of the Memo No.E5/Med Dlgs dated 3.2.2016 of the 4th respondent
- Annexure A8 - True copy of the letter no.E5/Med Dlgs dated 21.3.2016 issued by the 4th respondent
- Annexure A9 - True copy of the letter of the applicant dated 15.6.2016
- Annexure A10 - True copy of the letter No.E5/Med Dlgs dated 28.7.2016 issued by the 4th respondent
- Annexure R1 - Copy of letter dated 7.1.2014
- Annexure R2 - Copy of Office Memorandum No.S.14025/2/2011-MS dated 11.1.2011
- Annexure R3 - Copy of the relevant page from the Swamy's compilation of Medical Attendance Rules (2015 edition)
- Annexure R4 - Copy of Office Memorandum No.S 14012/9/75/MC(MS) dated 18th June 1982
- Annexure R4(a) - A true typed copy of Annexure R4
- Annexure R5 - The copy of the letter dated 2.3.2016

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Annexure R6 - Copy of Office Memorandum No.S
14025/19/2015-MS dated 27.5.2015

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