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**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

Original Application No.180/00415/2018

Wednesday, this the 20th day of February, 2019

CORAM:

HON'BLE Mr.E.K.BHARAT BHUSHAN, ADMINISTRATIVE MEMBER

Chandrasekharan Pillai R,
Aged 59 years,
S/o Raghava Paniker,
Telecom Technician,
Telephone Exchange,
Bharat Sanchar Nigam Limited,
Nooranad LS P.O.,
Pin: 690 571, Alappuzha District,
Residing at: Vilayil Veedu,
R.C.Villa, Thathamunna,
Nooranad P.O.,
Alappuzha District,
PIN: 690 504.Applicant

(By Advocate Mr.T.C.G.Swamy)

V e r s u s

1. The Chief General Manager Telecom,
Bharat Sanchar Nigam Limited,
Kerala Circle,
Thiruvananthapuram – 695 033.
2. The General Manager Telecom,
Bharat Sanchar Nigam Limited,
Alappuzha – 688 011.
3. The Assistant General Manager (Admn),
Bharat Sanchar Nigam Limited,
Alappuzha – 688 011.

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4. The Accounts Officer (PC),
Bharat Sanchar Nigam Limited,
Alappuzha – 688 011. ...Respondents

(By Mr.Thomas Mathew Nellimoottil)

This application having been heard on 6th February, 2019, the Tribunal on 20th February, 2019 delivered the following :

ORDER

OA No. 180/415/2018 is filed by Shri Chandrasekharan Pillai R., Telecom Technician with BSNL against the refusal on the part of the respondents to grant him full reimbursement of the medical expenses incurred and the medical expenses being incurred by him for treatment for a life-threatening ailment. The relief sought in the OA are as follows:

- “(i) Direct the respondents to make full reimbursement of the medical expenses incurred by the applicant for Indoor treatment in Amrita Institute of Medical Sciences & Research Centre, as claimed in A7 within a time frame as might be found just and proper by this Hon'ble Tribunal;
- (ii) Direct the respondents to continue to reimburse the medical expenses to be incurred by the applicant in connection with the continuation of treatment as indicated in A9 from time to time as might be required to be claimed by the applicant;
- (iii) Award cost of and incidental to this Application;
- (iv) Pass such other orders or directions as deemed just, fit and necessary in the facts and circumstances of the case.”

2. The applicant has been regularized in the services of BSNL w.e.f. 1.10.2000 and on being further promoted had been continuing as Telecom Mechanic under the respondents. He had been caught up with some health

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issues and after undergoing initial treatment at Medical Mission Hospital, Pandalam, was referred to the Amrita Institute of Medical Sciences and Research Hospital, Ernakulam, which is an empaneled hospital under the respondents, for further treatment. The applicant being an employee covered under the rules relating to the scheme for medical attendance of serving employees of BSNL, had submitted a representation on 29.12.2017 stating the all facts and seeking payment of an advance for the treatment in question (Annexure A1).

3. The applicant was subsequently diagnosed with carcinoma prostrate, a type of cancer for which he was advised to undergo robotic assisted radical prostatectomy plus bilateral PLND. He was admitted to the hospital on 22.1.2018. The Amrita Institute, by a letter dated 8.1.2018 addressed to the Accounts Officer in the office of the 2nd respondent, (Annexure A3) indicated that the total expenditure for the surgery, investigations, materials and medicines, bed charges plus nursing was estimated to be Rs. 2,60,000/-. In the circumstances the applicant had submitted a representation on 9.1.2018 and by Annexure A5 had also represented for payment of medical advance. The applicant was granted a medical advance of only Rs. 16,100/- less income tax deducted.

4. The applicant underwent the medical procedure on 23.1.2018 and was finally discharged on 28.1.2018. He was also directed to undergo further

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treatment as indicated in the discharge summary, copy of which is at Annexure A6. The total expenditure in connection with the above procedures came to an amount of Rs. 2,25,834/-. The applicant submitted a formal medical reimbursement claim, a copy of which is at Annexure A7. No response was coming forth and in the meanwhile the applicant was directed to undergo radiation therapy for a period of two years at an interval of three months each. Finally, the applicant's various communications persuaded the 3rd respondent to direct AGM, Administration in the office of the PGMT Ernakulam to undertake a verification of the treatment undergone. The verification was accordingly conducted and finally as per Annexure A12 it was indicated that the applicant being an employee of BSNL may be admitted in the hospital as per his entitlement and may be charged as per agreed rates with BSNL. After this process was completed the applicant was granted an amount of Rs. 52,331/- along with the salary bill for the month of April, 2018 out of which an advance amount of Rs. 16,100/- was adjusted. The net amount thus paid to the applicant for the applicant's treatment came to Rs. 52,331/-.

5. The applicant is aggrieved by the fact that the Amrita Institute despite being an empaneled hospital, the bills forwarded by the centre are being arbitrarily reduced. Being an empaneled hospital the rates charged are presumed to be rates which are agreed between the respondent organization and the hospital concerned. Once a hospital is empaneled the

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rates as per which a treatment is taken at the centre ought to be admitted for full reimbursement. Now the applicant is placed in a precarious situation were, he also has to undergo future radiation therapy as indicated in Annexure A9 and related medical procedures. He has no assurance that these will be admitted despite the hospital being an empaneled one.

6. A reply statement had been filed on behalf of the respondents wherein the facts submitted have been admitted. It is contended that as per CGHS approved rates fixed for radical prostatectomy robotic partial nephrectomy is only Rs. 20,125/- and 80% of the approved rates can be given as advance. It was in the light of this that a sum of Rs. 16,100/- was sanctioned to the applicant and amount of Rs. 14,400/- was paid to the hospital on this account after reducing income tax. It is further averred that the applicant had submitted admission details only on 12.3.2018 and there had been no time lost due to delay on the part of the respondents. While admitting that the Amrita Institute is an empaneled hospital of the respondent organization it is claimed that there is no provision under BSNL Medical Reimbursement scheme for the reimbursement to be made in full.

7. Heard Shri T.C. Govindaswamy on behalf of the applicant and Shri Thomas Mathew Nellimoottil on behalf of the respondents. Perused the records.

8. The facts involved are quite clear. The applicant had been diagnosed with a life threatening condition and was referred to one of the empaneled hospitals. He underwent the process that involved robotic procedure and the hospital submitted a detailed bill which was paid by the applicant from his own resources. Subsequently when the claim was put up to the respondent organization the main item, which is the medical procedure involved was significantly cut down on the ground that the CGHS rates for that process allowed only a significantly lower amount. The procedure involved was radical prostatectomy for which the hospital claimed Rs. 1,62,000/- whereas according to the respondents the amount allowed under CGHS rates was only Rs. 23,144/-. Apart from this there are various other items including medicines and care for which amounts had been reduced significantly on the ground that only the CGHS rates can be allowed. Thus, out of a total of 2,25,834/- claimed only 52,331/- was admitted for payment.

9. It is not denied that the Amrita Institute is an approved hospital under the respondent organization rules. The counsel for the applicant drew our attention to the judgment of the Hon'ble Supreme Court in *Shiva Kant Jha v. Union of India* in Writ Petition (Civil) NO. 694 of 2015 dated 13.4.2018 wherein it has been held:

"12) With a view to provide the medical facility to the retired/serving CGHS beneficiaries, the government has empanelled a large number of hospitals on CGHS panel, however, the rates charged for such facility shall be only at the CGHS rates and, hence, the same are paid as per the procedure. Though the respondent-State has pleaded that the CGHS has to deal with large number of such retired beneficiaries and if the petitioner is compensated beyond the policy, it would have large scale ramification as none would follow the procedure to approach the empanelled hospitals and would rather choose private hospital as per their own free will. It cannot be ignored that such private hospitals raise exorbitant bills subjecting the patient to various tests, procedures and treatment which may not be necessary at all times.

13) It is a settled legal position that the Government employee during his life time or after his retirement is entitled to get the benefit of the medical facilities and no fetters can be placed on his rights. It is acceptable to common sense, that ultimate decision as to how a patient should be treated vests only with the Doctor, who is well versed and expert both on academic qualification and experience gained. Very little scope is left to the patient or his relative to decide as to the manner in which the ailment should be treated. Speciality Hospitals are established for treatment of specified ailments and services of Doctors specialized in a discipline are availed by patients only to ensure proper, required and safe treatment. Can it be said that taking treatment in Speciality Hospital by itself would deprive a person to claim reimbursement solely on the ground that the said Hospital is not included in the Government Order. The right to medical claim cannot be denied merely because the name of the hospital is not included in the Government Order. The real test must be the factum of treatment. Before any medical claim is honoured, the authorities are bound to ensure as to whether the claimant had actually taken treatment and the factum of treatment is supported by records duly certified by Doctors/Hospitals concerned. Once, it is established, the claim cannot be denied on technical grounds. Clearly, in the present case, by taking a very inhuman approach, the officials of the CGHS have denied the grant of medical reimbursement in full to the petitioner forcing him to approach this Court.

14) This is hardly a satisfactory state of affairs. The relevant authorities are required to be more responsive and cannot in a mechanical manner deprive an employee of his legitimate reimbursement. The Central Government Health Scheme (CGHS) was propounded with a purpose of providing health facility scheme to the central government employees so that they are not left without medical care after retirement. It was in furtherance of the object of a welfare State, which must provide for such medical care that the scheme was brought in force. In the facts of the present case, it cannot be denied that the writ petitioner was admitted in the above said hospitals in emergency conditions. Moreover, the law does not require that prior permission has to be taken in such situation where the survival of the person is the prime consideration. The doctors did his operation and had implanted CRT-D device and have done so as one essential and timely. Though it is the claim of the respondent-State that the rates were exorbitant whereas the rates charged for such facility shall be only at the CGHS rates and that too after following a proper procedure given in the Circulars issued on time to time by the concerned Ministry, it also cannot be denied that the petitioner was taken to hospital under emergency conditions for survival of his life which requirement was above

the sanctions and treatment in empanelled hospitals.

15) In the present view of the matter, we are of the considered opinion that the CGHS is responsible for taking care of healthcare needs and well being of the central government employees and pensioners. In the facts and circumstances of the case, we are of opinion that the treatment of the petitioner in non-empanelled hospital was genuine because there was no option left with him at the relevant time. We, therefore, direct the respondent-State to pay the balance amount of Rs. 4,99,555/- to the writ petitioner. We also make it clear that the said decision is confined to this case only.

16) Further, with regard to the slow and tardy pace of disposal of MRC by the CGHS in case of pensioner beneficiaries and the unnecessary harassment meted out to pensioners who are senior citizens, affecting them mentally, physically and financially, we are of the opinion that all such claims shall be attended by a Secretary level High Powered Committee in the concerned Ministry which shall meet every month for quick disposal of such cases. We, hereby, direct the concerned Ministry to device a Committee for grievance redressal of the retired pensioners consisting of Special Directorate General, Directorate General, 2 (two) Additional Directors and 1 (one) Specialist in the field which shall ensure timely and hassle free disposal of the claims within a period of 7 (seven) days. We further direct the concerned Ministry to take steps to form the Committee as expeditiously as possible. Further, the above exercise would be futile if the delay occasioned at the very initial stage, i.e., after submitting the relevant claim papers to the CMO-I/C, therefore, we are of the opinion that there shall be a time frame for finalization and disbursement of the claim amounts of pensioners. In this view, we are of the opinion that after submitting the relevant papers for claim by a pensioner, the same shall be reimbursed within a period of 1 (one) month.

17) In view of the foregoing discussion, we dispose of the petition filed by the writ petitioner with the above terms.”

10. While in the case decided by the Apex court the treatment was taken in a non-empaneled institution, here the hospital involved is an empaneled hospital as per the records of the respondent organization. Thus, there is no doubt in my mind that the same decision is to be made applicable to the instant case with increased justification. Accordingly, this Tribunal holds that the applicant is entitled to the benefits as claimed by the applicant in the medical bills presented before the respondent organization. He will also be

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entitled for reimbursement of future treatment charges on account of the fact that he has been required to take further treatment for a very serious ailment that he is suffering from.

11. Original Application succeeds. No costs.

**(E.K.BHARAT BHUSHAN)
ADMINISTRATIVE MEMBER**

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List of Annexures in O.A. No.180/00415/2018

1. **Annexure A1** – True copy of the representation dated 29.12.2017, addressed to the 3rd respondent.
2. **Annexure A1(a)** - True translation of A1
3. **Annexure A2** – True copy of the communication dated 03 Jan 2018, issued by the Department of Urology, Amrita Institute of Medical Sciences & Research Centre.
4. **Annexure A3** – True copy of the estimate dated 08.01.2018 issued by the Amrita Institute of Medical Sciences & Research Centre.
5. **Annexure A4**– True copy of the representation dated 09.01.2018, addressed to the 4th respondent.
6. **Annexure A4(a)** – True translation of A4.
7. **Annexure A5** – True copy of the application form for medical advance in the prescribed format submitted to the 4th respondent.
8. **Annexure A6** – True copy of Discharge Summary issued by the Amrita Institute of Medical Sciences & Research Centre.
9. **Annexure A7**– True copy of the medial reimbursement claim for indoor treatment in the prescribed format affixing all the required documents.
10. **Annexure A8** – True copy of the representation dated 12.03.2018 submitted tot he 3rd respondent.
11. **Annexure A8(a)** – True translation of A8
12. **Annexure A9** – True copy of the communication dated 06 Apr 2018 issued by the Department of Uro-Oncology, Amrita Insitute of Medical Sciences & Research Centre.

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13. **Annexure A10** – A true copy of letter bearing No.G-91/BSNL MRS/2016-17/Vol.II/192 dated 12.03.2018 issued by the 3rd respondent.

14. **Annexure A11** – A true copy of report dated 15.03.2018 submitted by the Divisional Engineer/BSNL/Telephone Exchange/Kaloor.

15. **Annexure A12** - A true copy of letter bearing F.No.G-19/BSNL MRS/2016-17/Vol.II/198 dated 20.03.2018, issued by the 3rd respondent.
