

**Central Administrative Tribunal
Jaipur Bench, Jaipur**

O.A. No. 682/2016

Reserved on: 20.11.2018
Date of decision: 29.11.2018

Hon'ble Mr. A. Mukhopadhyay, Member (A)

Smt. Durga Devi W/o Late Shri Rood Mal Kumawat, aged about 65 years, r/o Marwal Sadan, Neemnagar, Ward No.10, Reengus, Distt. Sikar.

...Applicant.

(By Advocate: Shri P.N.Jatti)

Versus

1. Bharat Sanchar Nigam Limited through its Chairman, Bharat Sanchar Nigam Limited, Sanchar Bhawan, New Delhi.
2. Chief General Manager Telecom, B.S.N.L. Rajasthan Circle, Jaipur-7.
2. General Manager Telecom, B.S.N.L. District Pali, Rajasthan.
3. A.O. cash c/o General Manager Telecom District, B.S.N.L. Pali, Rajasthan.

...Respondents.

(By Advocate: Shri Sanjeev Pandey)

ORDER

This Original Application, (OA), arises out of medical bills of the applicant's late husband not being reimbursed by the respondents; (BSNL).

2. Briefly, the facts as narrated by the applicant are that her husband, who was a retired employee of BSNL, was treated for cancer at the Bhagwan Mahavir Hospital Jaipur, both by way of outdoor treatment and hospitalisation. On the bills for such

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treatment being submitted to the respondents, (BSNL), they did not make any reimbursement against the bills of a total value of Rs.93934.93/-, (Para 5.1 of the OA refers), and have either been silent on this issue or have returned the same with certain objections/advice vide their letters dated 05.07.2012, (Annexure A/2), 19.07.2012, (Annexure A/3) and 16.08.2012; (Annexure A/4). The objections in question are all of a procedural nature relating to separation of bills for outdoor and indoor treatment, providing copies of the discharge tickets and treatment advice etc. and do not state that the bills are either time barred or at variation with the BSNL policy for reimbursement. The applicant contends that all the bills in question were preferred within the six month period stipulated for such submission and since no mention was ever made in the objections referred to that the bills and the claims made were not made in keeping with the existing policy in this regard, it has to be presumed that when the department finally rejected the claims vide impugned order dated 26.10.2015, (Annexure A/1), raising the twin objections of the bills being time barred and not as per the BSNL-MRS policy, this was an afterthought prompted by the fact that the applicant had finally approached the Department of Pension and Pensioners Welfare, Government of India, (Annexure A/7), in desperation after not receiving any satisfactory response to the medical claims made earlier. Accordingly, the applicant seeks the following relief:-

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- 8.1) That by a suitable writ/order or direction the order dated 26.10.2015 annexed vide annexure A/1 be quashed and set aside.
- 8.2) That by a suitable writ/order or direction the respondents be directed to reimburse the medical bills submitted by the applicant before the respondents and the same be paid to the petitioner along with interest @ 6% per annum from the date of presentation of medical bills till actual payment.
- 8.3) Any other relief which the Hon'ble bench deems fit.

Interim relief

- 9.1) That since all the bills submitted by the applicant are liable to be reimbursed but the respondents have rejected the claim of the applicant arbitrarily due to which the applicant will suffer an irreparable loss, therefore, by a suitable writ/order or direction, the respondents be directed to reimburse all the medical bills provisionally so that some financial help may be provided to the applicant.
- 9.2) Any other relief which the Hon'ble bench deems fit.

3. In reply, the respondents claim that the bills in question are indeed time barred and therefore cannot be entertained on this count in view of the strict provisions of the BSNL Employees Medical Reimbursement Scheme, (BSNL MRS), Para 15 of which reads as under:

All claims for reimbursement should be submitted latest by six months from the completion of the treatment. Claims submitted beyond this period are liable to be rejected.

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Respondents further contend that the claims of the applicant are not admissible as per the BSNL MRS policy on the following grounds:

- i) Claim was not preferred within the stipulated period of six months from the completion of treatment in the prescribed format for outdoor and indoor treatment. This remained the position despite the applicant being advised several times to rectify the procedural defects in his application.
- ii) The employee, i.e. the late husband of the applicant did not inform BSNL of his ailment and treatment resulting in a situation in which the same could not be verified as required under the scheme. Consequently, no authorisation letter was issued for treatment/hospitalisation as required under the BSNL MRS policy; (Annexure F of the reply refers).
- iii) Some of the bills, (Para-3 of the reply refers), did not have proper authorisation for the specific treatment undertaken and were not signed by the concerned treating doctor. These bills were for a sum of Rs.45817.32/- and Rs.14553.27/- respectively.

The respondents contend, (Para-5 of the reply refers), that the bill mentioned at Sr.No.1 in the Original Application for Rs.7251.75/- was paid upto the admissible limit of Rs.6473 vide

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cheque No.292974 dated 27.06.2012 and that the remainder of the claims are not as per BSNL MRS policy.

4. Opposing counsel for the applicant and the respondents were heard and the material on record was perused. On the preliminary question of whether the claims are time barred or not, counsel for the applicant drew attention to the fact that this objection was never raised by the respondents in all the intervening correspondence that occurred between the applicant's late husband and the respondents, (BSNL), and this has only been raised in their communication of 26.10.2015, (Annexure A/1), rejecting the claims as an afterthought. Applicant's counsel reiterates that the intervening correspondence also does not refer to any of the claims being violative of BSNL MRS policy in substantive terms and that this too is an afterthought on the part of the respondents in order to escape their legal liability for making reimbursement. Applicant's counsel further contends that the respondents have nowhere challenged the applicant's assertion that all the bills in question were originally submitted within the six month period stipulated in the BSNL MRS policy and that any delay which may have subsequently occurred in acting on objections of a procedural kind being raised by the respondents cannot be treated as delay in submission of claims on the part of the applicant's late husband or the applicant. The applicant's husband passed away on 09.09.2012, i.e. shortly after

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receiving the objections in question vide letters dated 05.07.2012, (Annexure A/2), 19.07.2012, (Annexure A/3) and 16.08.2012; (Annexure A/4). The widow applicant, who was traumatised by this event and is illiterate, could not follow up on these claims and rectify the defects which were entirely of a procedural nature. He reiterates that the bills are neither time barred, nor are they at variance with BSNL MRS policy as per the inferred admission of the respondents themselves as their objections do not refer to either of these.

5. Respondents' counsel in his arguments reiterated their earlier stated position that the bills were not preferred in the prescribed format within the stipulated period of six months despite the applicant's husband being advised to rectify these defects.

6. On perusal of the BSNL MRS policy produced by the respondents themselves, a plain reading of Para 15 reproduced above shows that "**all claims for reimbursement should be submitted latest by six months from the completion of the treatment. Claims submitted beyond this period are liable to be rejected.**" It is not disputed in this case that the claims made were originally submitted within the stipulated timeframe. Whether they were presented in the prescribed format or not is

not relevant to the issue of limitation. Thus the claims cannot be said to be time barred in any manner.

7. On the substantive question of the admissibility of the claims, it is noted that as per the application made to the Secretary, to the Govt. of India, Department of Public Grievance and Pensioners Welfare, (Annexure A/7), through the Pensioners Welfare Society, the claims now made by the applicant are for Rs.26312.59/- for outdoor treatment and Rs.14553.57/- for indoor treatment i.e. a sum total of Rs.40866.16/-. Therefore, at this stage, it would be appropriate to limit the claims under dispute to this amount. Since a perusal of the record clearly shows that the respondents did not raise the question of the bills/claims being contrary in any way to the BSNL MRS Policy, it would appear reasonable to infer that this is indeed in the nature of an afterthought.

8. In the case of **Shiva Kant Jha vs. Union of India**, (Writ Petition (Civil) No.694/2015 – order dated 13th April, 2018), the Apex Court observed 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**" and that "**the real test must be the factum of treatment.**" Thus where the dispute appears limited to the purely procedural aspect, i.e. whether the retired

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employee/applicant gave due intimation of his hospitalisation and whether an authorisation letter was or was not issued in the case, the respondents are required to take a substantive view on the admissibility of the total claims of Rs.40,866.16 as per the provisions of the BSNL MRS policy.

9. Accordingly, this OA is disposed of with a direction to the respondents to consider the aforementioned claims of the applicant in accordance with the BSNL MRS policy and in the light of the Hon'ble Supreme Court's observations in the case of Shiva Kant Jha vs. Union of India, (supra), preferably within a period of two months from the date of receipt of a certified copy of this order and ensure payment of the due amount to the applicant within further one month of such determination. In case this determination and subsequent payment is delayed beyond the three months, then the interest as sought by the applicant at the rate of 6% per annum will be payable on the reimbursable amount upto the date of such payment.

10. There will be no order on costs.

(A.Mukhopadhyaya)
Member (A)

/kdr/