

**CENTRAL ADMINISTRATIVE TRIBUNAL  
JODHPUR BENCH**

...

**Original Application No.290/00286/2017**

RESERVED ON : 15.01.2019

Pronounced on : 21.01.2019

**CORAM:**

**HON'BLE MRS. HINA P.SHAH, MEMBER (J)**

K.M.Devasia s/o Shri Mathai Devasia, aged about 68 years,  
R/o A/6, Subhas Enclave Air Force Area, Jodhpur, Rajasthan

...Applicant

(By Advocate: Mr. Rishabh Purohit, proxy for Shri Kuldeep Mathur)

Versus

1. The Union of India, through the General Manager, North Western Railway, Jaipur, Rajasthan
2. The Senior Divisional Personal Officer, North Western Railway, Jodhpur.
3. The Chief Medical Superintendent, North Western Railway, Jodhpur.

...Respondents

(By Advocate: Shri Girish Sankhla assisted by Shri M.H.Sherani)

**ORDER**

The applicant has filed the present OA u/s 19 of the Administrative Tribunals Act, 1985 praying for the following reliefs:

- (i) It is therefore, most humbly and respectfully prayed that in this Original Application applicant may kindly be allowed, and by an appropriate direction.
- (ii) It is humbly and respectfully submitted that order dated 09.02.2017 is quashed and set aside.
- (iii) That respondent may be directed to make the payment of the expenses incurred by the applicant for his treatment as per bill of hospital MENDANTA – THE MEDCITY for Rs. 3,40,343.18.
- (iv) Any other relief, which this Hon'ble Tribunal deems fit and proper in favour of the applicant may be granted. The original application may kindly be allowed with costs and all circumstantial benefits may be granted in favour of the applicants.
- (v) Costs of this application be ordered to be awarded in favour of the applicant.

2. Brief facts of the case, as narrated by the applicant, are that the applicant is retired employee of the North-Western Railway. He is holder of medical card No.000126 and he and his wife are eligible for medical benefits from the respondents. On 4.9.2016, the applicant suddenly developed cardiac problem and was admitted to MDM Hospital, Jodhpur where he continued as indoor patient till 9.9.2016. At the time of discharge from MDM Hospital, Jodhpur, they have referred him to higher medical centre for CTVS-CABG. Accordingly, the same was informed to the respondent department. The respondents vide their letter dated 19<sup>th</sup> September, 2019 referred the applicant to the MD, Central Hospital, Jaipur for CTVS-CABG, where he has to be operated after 15 days. The applicant avers that his

daughter was residing in Delhi and as there was no one to take care of the applicant at Jodhpur, so his daughter has taken him to Delhi along with her. It is the case of the applicant that all of sudden on 21<sup>st</sup> September, 2016 his condition deteriorated and looking to the critical situation of the applicant, the family members of the applicant had to go to Medanta-The Medcity, Gurgaon where the Doctor advised to admit the applicant in emergency and operated him for treatment of CTVS-CABG. On 22<sup>nd</sup> September, 2016, the applicant was operated for CABG and his treatment continued as indoor patient and he was discharged on 29<sup>th</sup> September, 2016. From 29<sup>th</sup> September to 30<sup>th</sup> November, 2016, the applicant remained in Gurgaon for further periodical medical check up investigation for follow up treatment. Thereafter the hospital authorities allowed the applicant to go to Jodhpur and continue the treatment. After the CABG conducted in Medanta Hospital, the applicant has submitted a bill totalling Rs. 3,40,343.18 to the respondents along with representation dated 7.2.2017. On 1<sup>st</sup> December, 2016 the applicant approached and reported to RH/JU for continuous treatment and is further undergoing treatment to that effect. But vide order dated 9.2.2017, the Chief Medical Superintendent has

rejected the claim of the applicant on the ground that there was no emergency in taking treatment in private hospital at Medanta, Gurgaon. The applicant, therefore, states that the inaction of the respondents for not reimbursing the medical expenses is highly arbitrary, illegal and unconstitutional.

3. After receipt of notice, the respondents have filed reply stating that the applicant is not entitled for the said relief as he was admitted to MDM Hospital, Jodhpur on 4<sup>th</sup> September, 2016 and he had undergone CAG at MDM, Hospital on 7.9.2016 wherein he was advised for CABG. The applicant returned by Railway Hospital, Jodhpur at his own will as he desired on 19.9.2016 to go to a good centre for CABG purpose. The applicant was referred to Central Hospital at Jaipur and if so needed then he might have been referred to any private empanelled hospital. But the applicant in spite of going to Central Hospital, Jaipur, on his own went to Medanta Hospital for CABG. It is clear that at the time of admission in Mendanta Hospital, condition of the applicant was stable and hence there was no case of emergency. It is stated that it was a planned and deliberate step to show that it is an emergency, but as per Railway Board policy, no emergency is proved and the application given by the applicant to have taken treatment at Medanta

Hospital is not justified. Therefore, the claim of the applicant for medical reimbursement was rejected. The respondents further state and deny the fact that the applicant was not suitably replied as reply on his application for medical reimbursement was given to the applicant on 9.2.2017 and the same was received by his wife. It is stated that the applicant got admitted at Medanta Hospital on 21.9.2016 and on the very next day he was operated for CABG. As it was a pre-planned treatment taken by the applicant and not a case of any emergency, therefore, claim of reimbursement submitted by the applicant being not in accordance with the norms of the Railway Board has rightly been rejected vide the impugned order dated 9.2.2017.

4. Heard the learned counsel for the parties and perused the material available on record.

5. In the instant case, it is not disputed that the applicant is not suffering from the cardiac problem or his case was not referred to higher centre, but the sole question in this case is that the applicant should have taken treatment in the Central Hospital, Jaipur, from where if need would have arisen, he could have then been referred to private hospital, but the applicant at his own has taken treatment at private

hospital. The contention of the applicant is that when he was at Delhi, he developed a chest pain, and his family members admitted him to Medanta Hospital, Gurgaon, where he has taken treatment in emergent condition.

6. It is not the case of the respondents that if the applicant would have been referred to the private recognized hospital, he would not be eligible for medical reimbursement.

7. In this regard, it will be relevant to refer to the decision of the Hon'ble Rajasthan High Court in DB Civil Writ petition No.964/2014 decided on 6.4.2018 in the case of N.K.Khandelwal vs. Union of India and Ors. wherein the railways has refused the claim of the applicant for taking treatment in a private hospital and so no reimbursement was given. The Hon'ble High Court has observed that if the Tribunal would have looked into the aforementioned policy it would have dawned that irrespective of the situation being critical or irrespective of there being no emergency, pertaining to treatment taken in a private non recognized hospital, reimbursement at CGHS rate could have been made.

8. In view of above observations, I am of the opinion that the respondents should have reimbursed the amount to the applicant to the extent of CGHS rates applicable for such treatment.

9. Accordingly, the impugned order dated 9.2.2017 is quashed and the respondents are directed to scrutinise the case of the applicant and reimburse the amount to the extent of CGHS rates prescribed for such treatment. This exercise shall be completed within a period of three months from the date of receipt of a copy of this order.

10. The OA stands disposed of in above terms with no order as to costs.

(HINA P.SHAH)  
JUDL. MEMBER

R/