

**Central Administrative Tribunal  
Principal Bench, New Delhi.**

**OA-1302/2016**

**Reserved on : 19.12.2018.**

**Pronounced on : 03.01.2019.**

**Hon'ble Ms. Praveen Mahajan, Member (A)**

Sh. A.P. Nagrath, 75 years  
Advisor, Industrial Relations,  
Railway Board (Retd.),  
S/o Sh. H.P. Rai,  
5/1-A, Aravali View,  
Rail Vihar, Sector-56,  
Gurgaon-122011.  
(Haryana).

....      Applicant

(through Sh. P.S. Khare, Advocate)

Versus

Union of India through  
General Manager,  
Northern Railway,  
Baroda House,  
New Delhi.

....      Respondent

(through Ms. Ekta Rany for Mr. Kripa Shankar Prasad, Advocate)

**O R D E R**

Briefly stated, the facts of the case are that the applicant, an ex-Member of Central Administrative Tribunal, is a beneficiary of Retired Railway Employees Health Scheme (RRELHS), having retired as Adviser (IR), Railway Board, New Delhi on 30.09.2000. He possesses a medical identity card bearing No. 023276 as a member of RRELHS

2. Wife of the applicant has a long history of ailments having undergone major procedure of Total Colectomy plus Illeostomy in AIIMS, New Delhi on 27.08.1987. She had to undergo repeated surgical procedures for various problems and, over time she was hit by acute renal failure and both her kidneys failed. She is a patient of End Stage Renal Disease (ESRD) and her survival is totally dependent on hemodialysis. She is on dialysis since March, 2007, and has undergone multiple surgical procedures from the year 2007 which included procedures for construction of A.V. Fistula and Grafts, in addition to a number of procedures for providing temporary access for dialysis. It is submitted by the applicant that ESRD is a case of continuing emergency, as survival of such patient is purely dependent on proper hemodialysis, which she is getting four times a week. The claims, subject matter of this O.A. pertain to hemodialysis, its related procedures and diagnostic tests etc.

2.1 The applicant submits that his wife has been undergoing dialysis in Artemis Hospital since 2007. Periodically, the respondents grant sanction for 60 dialysis at a time and advance payment is deposited with Artemis Hospital. However, in July, 2014, this process took very long so for the period from 02.08.2014 to 17.09.2014 the applicant made the payment amounting to Rs. 53,750/- to Artemis Hospital. The applicant submitted his claim on 26.09.2014. The applicant avers

that in terms of principle laid down by the Hon'ble Supreme Court in the case of **Suman Rakheja Vs. State of Haryana and Anr.**, (2004) 13 SCC 562 reimbursement has to be made at the rates applicable in AIIMS plus 75% of the balance amount, if any. Having regard to this principle, full amount of Rs.53750/- is payable as against Rs.41860/- being processed by the respondents.

2.2 The applicant submitted another medical bill of his wife amounting to Rs.28900/- dated 26.09.2014. Vide letter dated 11.02.2016, the respondents rejected his claim on 15.07.2015. Regarding another claim submitted by the applicant on 11.09.2015 for reimbursement of Rs.2000/-, he was informed vide letter dated 11.02.2016 that this claim was transferred to CMS/Delhi Division from NRCH. It is stated that delaying the reimbursement of medical claims tantamounts to deliberate harassment on part of the respondents.

3. On 10.11.2015, Artemis Hospital found that dialysis could not be carried out on the patient as the A.V. Graft of applicant's wife had blocked. The applicant was advised to rush his wife to a Vascular Surgeon Immediately. The applicant's wife got the treatment in Medanta Hospital in emergency. The applicant submitted the medical claim for Rs.1,98,787.42 for reimbursement on 28.11.2015.

This amount is pending payment for more than three months even though prescribed time period for sanction is 45 days.

4. Aggrieved, the applicant filed an OA-1821/2008 before the Tribunal, which was disposed of on 22.08.2008. Being not satisfied by the amount reimbursed by the respondents, the applicant filed another OA-2884/2011, which was disposed of by the Tribunal on 09.02.2012 by directing the respondents to examine the claim of medical reimbursement of the applicant and, if found payable to be released to him within one month. It was further directed that in case the respondent again arrives at a conclusion that the aforesaid amount is not payable to the applicant, the respondent would pass a reasoned order specifically explaining as to how the judgments of Hon'ble Supreme Court in the cases of **Suman Rakheja** (supra) and **State of Punjab and Ors. Vs. Mohinder Singh Chawla and Ors.,** (1997) 2 SCC 83 are not applicable to the facts of the case.

4.1 Since the respondents abnormally delayed processing the claims, the applicant was constrained to file another OA-500/2013 consequent to which the respondents made payments as per AIIMS rates. As some amount still remained unpaid, the applicant filed Writ Petition-8771/2014 seeking modification of the Tribunal's order passed in OA-500/2013.

5. Aggrieved, the applicant has filed the current O.A. seeking the following reliefs:-

- "(a) allow this application and direct the respondent to release the entire amount against each of the claims having regard to Suman Rakheja's case as also because of delays and negligence on respondent's own part.
- (b) to pay interest @12% on each of the claims for the period beyond 45 days from the date of submission of each claim, as prescribed in the respondent's PS No.12110/2000."

6. In their counter reply, the respondents submit that the O.A. is barred under the provisions of Sections 20 and 21 of the Administrative Tribunals Act, 1985. The claim of the applicant has been examined as per law laid down in Indian Railway Medical Manual 3<sup>rd</sup> Edition 2000 (as amended) and paid accordingly. The amount of Rs.1,48,705/- was sanctioned and paid to the applicant as against the claimed amount of Rs.1,98,878/-. Further, the medical reimbursement claim for sanction of medical expenses incurred on the treatment of applicant's wife was not referred by an authorized Medical Officer. With regard to the claim of an amount of a sum of Rs.53750/- an amount of Rs.37,180/- has been sanctioned after due scrutiny of his case and the aforesaid amount has also been paid.

7. I have gone through the facts of the case carefully. It is not disputed that the applicant's wife has to undergo dialysis regularly on account of her chronic renal failure. The treatment being undertaken by the applicant's wife is of a continuous nature and

complications of an emergent nature are likely to arise on account of nature of such prolonged treatment. This fact has also been accepted by the respondents while processing his earlier claims in this regard. Unfortunately, the applicant, who is senior citizen, has had to rush to the Tribunal time and again to get his rightful medical claims sanctioned, which obviously is not desirable.

8. In the instant case, the respondents have stated that the expenses incurred on the treatment of applicant's wife have not been referred by an authorized medical officer due to which some procedural hurdles have occurred. The respondents are directed to process the following medical claims of the applicant:-

<b>S.No.</b>	<b>Particulars</b>	<b>Submitted on</b>
1.	Rs.53,750.00	26.09.2014
2.	Rs.28,900.73	26.09.2014
3.	Rs. 2,000.00	11.09.2015
4.	Rs.1,98,787.42	28.11.2015

and release the payment to him if not already done, at AIIMS rate. The judgment of the Hon'ble Supreme Court in the case of **Suman Rakheja** (supra) is a settled law of the land and needs to be followed by the respondents. The circulars of Railway Board (cited as reasons for denial of reimbursement) cannot prevail over the decision of the Hon'ble Supreme Court. The entire exercise of

sanctioning and releasing the pending medical claims of the applicant as per the norms laid down in **Suman Rakheja's** case, must be completed within two months from the date of issue of a certified copy of this order. I am, however, not inclined to grant any interest on delayed payment, if any.

9. O.A. is allowed with these directions. No costs.

**(Praveen Mahajan)  
Member (A)**

/vinita/