

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH:
NEW DELHI**

O.A. NO.1120 of 2018

This the 27th day of September 2019

Hon'ble Ms. Nita Chowdhury, Member (A)

Sh. Bir Bahadur Singh,
Aged about 71 years,
S/o Late Sardar Amrik Singh,
R/o 23B, Dhruv Apartment,
Plot No.43, Sector-13,
Rohini, New Delhi-110085.

....Applicant

(By Advocate : Shri S.K. Gupta)

VERSUS

1. Bharat Sanchar Nigam Limited.
through Chairman-cum-Managing Director,
Bharat Sanchar Bhawan,
Harish Chandra Mathur Lane,
Janpath, New Delhi-110001.
2. Chief General Manager,
Bharat Sanchar Nigam Limited,
Quality Assurance and Inspection Circle,
Sanchar Vikas Bhawan,
Residency Road, Jabalpur-482001
Rajasthan.

.....Respondents

(By Advocate : Shri A.K. Srivastava)

O R D E R (Oral)

By filing this OA, the applicant is seeking the following
reliefs:-

- “(i) Quash and set aside the reasons given in communication dated 11.12.2017 (Annexure A-1) for the purpose of denying the legitimate claim of the applicant towards bill raised on 26.10.2015.
- (ii) direct the respondents to reimburse the Rs.3,56,135/- (Rupees Three Lakh Fifty Six

Thousand One Hundred and Thirty Five only) along with interest at the rate of Rs.15% p.a.;

- (iii) May also pass any further order(s), direction(s) as be deemed just and proper to meet the ends of justice.”

2. Brief facts of the case as narrated by the applicant are that the applicant is a retired Divisional Engineer, (DET (QA) from BSNL.

2.1 After retirement, the applicant is residing at the address, namely 23B, Dhruv Apartment, Plot No.43 Sector-13, Rohini, Delhi-110085.

2.2 The applicant felt a severe chest pain on 9.10.2015 and as such he was admitted in Max Super Speciality Hospital, Shalimar Bagh (emergency certificate (Annexure A-2)).

2.3 On 14.10.2015, the said Hospital issued the estimate bill for hospitalization, which includes Baloon Coronary Graphy, Stent-cost etc. and the bill was around Rs.3,56,135/- and the said treatment was taken in emergency condition as is evident from discharge summary (Annexure A-3). The applicant remained in the said Hospital for seven days from 9.10.2015 (9.42 AM) to 14.10.2015 and was accordingly discharged on 14.10.2015.

2.4 On 6.10.2015, the applicant submitted his claim for reimbursement amounting to Rs.3,56,135/- and the applicant also supplied necessary details including BSNL,

MRS Card, package of 7 days estimate, Bill number, receipts, claim for indoor patient, certificate of hospitalization, emergency certificate and BSNL letter dated 26.10.2015 (Annexure A-4 (Colly)).

2.5 Thereupon on 9.11.2015, the office of respondents sent a communication dated 9.11.2015 wherein they observed as under:-

- “1. Indoor treatment has been taken is non-empanelled hospital without the prior/post approval of competent authority. Please intimate whether the private hospital where treatment has been taken is nearer than the government hospital or BSNL empanelled hospital w.r.t. para 3 (vii) of BSNL CO Letter No.BSNL/Admn.I/1(Pt) dated 23.08.2006.
2. No intimation/request application given during the period of indoor treatment. As a result no officer is deployed to verify the patient.
3. Copy of invoice and pouches for implanted of coronary stent has not been enclosed. As per CGHS/MoH & FW OM F.No.Misc.1002/2006/CGHS(R&H)/CGHS(P)dated 21.02.2013 (para 3) in case treatment taken from a private non-empanelled hospital in emergency, it is responsibility of the beneficiary to obtain the batch number, invoice and outer pouches of the stent(s) before the submission of medical claim to concerned department.”

The applicant was directed to comply with the aforesaid instructions and resubmit the case to the office for further processing.

2.6 It is stated that query no.1 as noted above, is not correct as the said MAX Super Speciality Hospital, Shalimar Bagh where the applicant was admitted in an emergency condition is one of the empanelled hospital with the validity of

empanelment from 5.10.2015 to 31.12.2018 and the applicant was admitted on 9.10.2015, i.e., after 5.10.2015. List of empanelled hospital is at Annexure A-6 and the said Hospital has been mentioned at Serial No.9 under the heading "Speciality (Selective) Hospital.

2.7 Applicant further averred that at the time of submitting the claim, the applicant was not aware that the aforesaid hospital is an empanelled hospital with the validity of agreement effective from 5.10.2015.

2.8 When his claim was not processed, on 14.6.2016, he submitted an application under RTI Act sought certain information from the respondents. Thereupon, he received a communication dated 11.8.2016 wherein it is stated that indoor medical bill submitted by him is returned by CGM (Inspection) and (QA) Circle, Jabalpur with the remark that applicant's certificate that there is no BSNL empanelled hospital nearer than the non-empanelled hospital (where got admitted) is not found available. Thereafter the applicant submitted his reply to the said communication dated 6.9.2016 (Annexure A-9) wherein it is stated that the aforesaid hospital is nearest to his residence than any BSNL empanelled hospital and narrated his version as under:-

"As per your office query to the best of my knowledge MAX Hospital, Shalimar Bang is nearest to my house then any BSNL empanelled hospital. I further state that no list of empanelled hospital from time to

time is provided to retired persons because there is no system in BSNL. Also there is no system in BSNL to see the BSNL Website because no password is provided to retired persons to see the list of empanelled hospital. In this regard kindly refer to clause no.3.0 (vii) and (viii) of BSNL. Letter no.BSNL/Admn.I/1(PT) dt. 23 August, 2006. The clause state that in case of emergency and serious nature of disease the person on the spot may use his/her discretion for taking the patient for treatment in a private hospital in case no govt. or an empanelled hospital is available near than the private hospital. In my case on 9.10.2015, I suffered a major heart attack with severe pain in my chest and there was no time to think for my relatives so they took me to the MAX hospital, Shalimar Bagh emergency and it was question of my life and death and great risk of death.”

2.9. In the meantime, the applicant received a mail from official mail of the office of the respondents wherein, an extract of the list of hospitals was provided and it is clear from the said list (Annexure A-6) that the applicant was harassed and discriminated as although he was not aware that the said MAX Super Speciality Hospital, Shalimar Bagh is one of the empanelled hospitals with the agreement effective from 5.10.2015 where as the applicant was admitted on 9.10.2015. As such, all the objection raised by the respondents are without any basis as the applicant took the treatment from the said Hospital in emergency conditions.

2.10 Thereafter when the applicant did not receive any communication, he sent an application under RTI Act, 2005 on 5.10.2017 sought information with regard to delay in processing his claim of medical reimbursement as almost two years have elapsed.

2.11 Thereafter the applicant received reply to his RTI application vide communication dated 11.12.2017 wherein it was conveyed to him that he has not informed/intimated during his treatment period and therefore, the physical verification could not be done.

2.12 Being aggrieved by the aforesaid order 11.12.2017, the applicant has filed this OA seeking the reliefs as quoted above.

3. Pursuant to notice issued to the respondents, they filed their reply in which it is stated that the applicant was admitted w.e.f. 9.10.2015 and was discharged on 14.10.2015. As per the BSNL CO letter No.BSNL/Admn.I/I(Pt.) dated 23.08.2016, para 3.0 (ii) clearly mentions that “the retired beneficiary may approach the designated officer (not below the rank of STS or equivalent) in the SSA/Circle Office for issue of authorization letter for the particular BSNL empanelled hospital. Advise of any Doctor registered in the allopathic system of medicine for hospitalization and copy of MSNL MRS card have to be submitted as supporting documents for issue of authorization letter. They further stated that applicant never approached/intimated the designated officer during the period of his admission, i.e., 9.10.2015 to 14.10.2015, hence the physical verification could not be done and the necessary certificate could not be issued.

3.1 In their counter affidavit, the respondents have raised the objection of jurisdiction of this Tribunal to entertain this OA as the applicant's parent office is not Delhi.

3.2 They further stated that in the BSNL, CO New Delhi's letter dated 24.3.2016, it is clearly mentioned that the certification by an officer of the parent office of an officer at the place of hospitalization will be invariably required. Owing to the above reasons, the applicant was intimated vide office letter dated 9.11.2015 that no intimation/request application was given during the period of indoor treatment. As a result no officer was deployed to verify the patient.

3.3 They themselves stated that a clarification was sought from BSNL CO, New Delhi (respondent no.1) vide respondent no.2's letter dated 11.5.2017 as to whether the Chief General Manager can exempt the requirement of Hospital visit certificate in the case of the applicant. The BSNL CO, New Delhi's vide letter dated 1.8.2017 intimated that the case should be examined thoroughly on its merits and based on the merits of the case, the same should be settled as per BSNL MRS Policy/guidelines. They further stated that in accordance with BSNL CO New Delhi's letter dated 24.3.2006, it is clarified that in case an employee or his dependent has to be hospitalized in emergency at a place other than his/her place of posting at the place of hospitalization to visit the hospital and certify the hospitalization. However, such visit

and certification is not found feasible due to some practical difficulty then the Chief General Manager, in respect of the field staff may exempt the requirement of aforesaid certification. In other cases, the certification by an officer of the parent office of any employee or by an officer posted at the place of hospitalization will be invariably required. Since the officer was an officer of the rank of Divisional Engineer (STS), he is expected to be well conversant with the rules & regulations of BSNL. The officer was admitted from 9.10.2015 to 14.10.2015 for 5 days, therefore, he had sufficient time to intimate the BSNL authorities of his hospitalization before getting discharge from the said Hospital. This shows the willful default of the officer on his part.

3.4 They further stated that on receipt of letter dated 1.8.2017, the case of the applicant was thoroughly examined by the respondents and found that the applicant has failed to fulfill the required formalities as per BSNL MRS Guidelines, which is the basic necessity for reimbursement of indoor medical claim. Therefore, the claim was rejected by the competent authority. Accordingly, looking at the above facts and circumstances, the RTI application dated 5.10.2017 of the applicant was disposed of by letter dated 11.12.2017 which has been impugned by the applicant in this OA.

4. During the course of hearing, both the learned counsel reiterated their stands as taken by them in their respective

pleadings. However, counsel for the applicant has also placed reliance on the decision of the Hon'ble Supreme Court in the case of ***Shiva Kant Jain vs. Union of India***, 2018(3) SLR 328 (S.C.) in support of the claim of the applicant and contended that in the said case, the Apex Court observed that settled legal position is that the Government employee during his life time or after his retirement is entitled to get the benefit of medical facility and no fetter can be placed on his right and that the right to medical claim cannot be denied merely because the name of the hospital is not included in the Government order and further observed that it is only to be seen that the claimant actually took the treatment and said fact is support by records only by doctors and the State was directed to pay balance amount.

5. Having heard leaned counsel for the parties and perused the pleadings available on record, first of all, the objection of jurisdiction of this Tribunal as raised by the respondents is not sustainable in view of the fact that applicant is a retired employee and he has taken treatment at Delhi as he is residing in Delhi only and the present OA is well within the jurisdiction of this Tribunal in view of the provisions of the Administrative Tribunals Act, 1985.

6. It is observed that there is no denial that the applicant was admitted in MAX Super Speciality Hospital on 9.10.2015 in emergent conditions as evident from the emergency

certificate issued by the said Hospital. Applicant himself stated that he was not aware that the said hospital was one of the empanelled hospitals as is evident from Annexure A-6 well before the date of undergoing the treatment in the said hospital but this fact was every much within the knowledge of the respondents who processed his claim for medical reimbursement. So far as the contention of the respondents that applicant has not intimated them during the period he was under treatment in the said Hospital is concerned, it is trite law that in emergent condition the employee concerned must not be insisted for prior approval of the competent authority for taking the treatment. It is relevant to note here that when the applicant took the said treatment, he was of 69 years of age and the said treatment was undertaken in emergent condition as is evidently proved by the emergency certificate and discharge summary. In such circumstances, the applicant only has the option to submit his claim for medical reimbursement after taking the required life saving treatment, which he had done in this case. In such circumstances, it is the duty of the respondents to process the same in true letter and spirit of the BSNL MRS Police/guidelines. They themselves stated in their counter affidavit that BSNL CO New Delhi's letter dated 24.3.2006 clearly provides that in case an employee or his dependent has to be hospitalized in emergency at a place other than

his/her place of posting, such visit and certification if it is not found feasible due to some practical difficulty then the Chief General Manager, in respect of the field staff may exempt the prior requirement of aforesaid certification. It is also to be noted here that applicant is retired employee and as such it is the duty of the respondents to take appropriate action in the matter while processing his claim for medical reimbursement.

7. In view of the above factual position and for the foregoing reasons, the impugned order dated 11.12.2017 is not sustainable in law and the same is accordingly quashed. This matter is remitted back to the respondents to process the claim of the applicant for medical reimbursement in accordance with the provisions of rules and also keep in mind the decision of the Apex Court in the case of **Shiva Kant Jha** (supra) and reimburse him admissible amount within a period of three months from the date of receipt of a certified copy of this Order.

8. In the result, the instant OA is allowed in above terms. There shall be no order as to costs.

(Nita Chowdhury)
Member (A)

/ravi/