

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

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CORAM: HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J)

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**Order reserved on: 29.08.2019
Order Pronounced on: 04.09.2019**

**ORIGINAL APPLICATION NO. 060/01010/2018 & M.A. No.
60/1185/2019**

Bhajnik Singh aged 65 years (now retired) son of Babu Singh, r/o
House No. 609, Sector 44-B, Sham Nagar, Ludhiana 141001
(Group-C).

....APPLICANT

(By Advocate: Shri G.P. Vashist, Advocate)

VERSUS

1. The Union of India through its General Manager, Northern Railway, Baroda House, New Delhi-110001.
2. Chief Medical Director, Northern Railway, Baroda House New Delhi 110001.
3. Chief Medical Superintendent, D.R.M. Office, Northern Railway, Ferozepur Cantt. 152002.
4. Divisional Personnel Officer, D.R.M. Office, Northern Railway, Ferozepur Cantt. 152002.
5. Station Superintendent Northern Railway, Railway Station, Ludhiana 141001.

....RESPONDENTS

(By Advocate: Shri Lakhinder Bir Singh)

ORDER**SANJEEV KAUSHIK, MEMBER (J)**

The applicant is aggrieved against order dated 21.10.2016 (Annexure A-7), whereby his claim for reimbursement of the amount incurred by him on purchase of Bi PAP/CPAP Machine has been rejected by the respondent- railways on the ground that there is no such policy to reimburse the said amount.

2. The facts, which led for filing of the present Original Application (O.A.), are that the applicant was working as Passenger Guard in Northern Railway, Ludhiana. It is the case of the applicant that while in employment with the respondents, he fell seriously ill and was referred to Satguru Partap Singh Apollo Hospital, Ludhiana, where he remained admitted in MICU from 2.3.2009 to 2.4.2009 under treatment of Dr. Akashdeep, who advised him to purchase Bi PAP/CPAP Machine with Accessories (Mask, Pipe, Power, Cable), which the applicant purchased from Midmed Healthcare Technologies, SCO No. 17-F, Shaheed Bhagat Singh Nagar, Ludhiana vide invoice no. 17 dated 19.6.2009 for Rs. 93,600/-. After discharge from hospital the applicant applied for reimbursement of medical expenses including the expenses incurred for purchase of above referred Machine. The claim of the applicant was referred to the Senior D.M.O., N.R. Ludhiana vide letter reference No. 22-T/SS/Ldh/2009 dated 27.6.2009. When the applicant did not heard anything from the respondent Railways with regard to his claim, he served Legal Notice and ultimately he

filed Civil Suit No. 258 dated 11.8.2010 before Civil Judge (Jr. Division), Ludhiana. The said suit was dismissed vide decree dated 17.4.2015 (Annexure A-1). Aggrieved by the decree dated 17.4.2015, the applicant filed appeal before learned Additional District Judge, Ludhiana (Annexure A-2), which was partly allowed vide judgment dated 24.09.2015 thereby directing the appellant (applicant) to appear before the respondents -defendants to clarify deficiencies pointed out by the respondents in letters dated 1.10.2009 and 17.6.2010 and thereafter the respondents were directed to dispose of the claim of the applicant, in accordance with law and procedure within a period of one month. Applicant submitted representation. He was directed to appear before Medical Board vide communication dated 4.3.2016 and 21.3.2016 and he was medically examined and was discharged on 23.3.2016. By the impugned order, his request for reimbursement of expenses incurred by him on purchase of machine has been turned down, against which the applicant is before this Tribunal.

3. Learned counsel appearing for the applicant, vehemently argued that impugned order rejecting the claim of applicant for reimbursement of expenses which he incurred on purchase of medical equipment for his health, as advised by the Doctor, is illegal, arbitrary and liable to be quashed and set aside. He further argued that once the Doctor, who treated him had advised to purchase the said Machine for his better health, then the respondents cannot, in an arbitrary manner, reject his claim on the ground that there is no such policy to reimburse the amount

incurred for purchase of said machine. He further argued, that he purchased the said equipment for his health and has submitted invoice for reimbursement of amount which the respondents can verify and thereafter they can reimburse the said amount. Lastly, he submitted that once the Medical Board, which has examined the applicant, pursuant to the judgment passed by the Learned Additional District Judge has opined that the machine is required for his better health, then the action of the respondents in not reimbursing the said amount is illegal, arbitrary and in violation of Articles 14 & 21 of the Constitution of India. As such, he prayed that the O.A. be allowed and impugned order be quashed and set aside.

4. The respondents have resisted the claim of applicant by filing short reply. They did not dispute the fact that the applicant has purchased the machine with accessories for treatment of his ailment of Sleep Apnea, but only objection has been raised that there is no policy by the Railway Administration for purchase of said machine by an individual. It is the responsibility of the hospital to provide the above indicated machine for treatment of an employee and the machine has to be purchased by the Railway Administration and that will remain property of the Railways. It has also been submitted that there is no provision of reimbursement of such machines as per Railway Board policy circular dated 8.9.2010 and 8.5.2015 (Annexure A-11) and there is no provision to purchase this machine by an individual and this has to be purchased by the Railway Administration and on necessity the

same has to be provided to an employee beneficiary for better health on the recommendation of the Railway Board which includes one Senior Administrative Grade and two Junior Administrative grade Railway doctors, with at least one physician and one chest physician recording that the beneficiary needs the machine. It has also been stated that supply of machine is once-in-a-lifetime to the beneficiary who is responsible for its safe keeping and maintenance of expenditure and it has to be examined by the doctor periodically to ascertain as to whether the machine is further required or not. In support of the above pleas, Mr. Lakhinder Bir Singh, learned counsel for respondents vehemently submitted that since there is no such policy for reimbursement of amount incurred for purchase of said machine, thus, his claim cannot be accepted.

5. I have given my thoughtful consideration to the entire matter and have perused the pleadings available on record with the able assistance of learned counsel appearing on behalf of the parties.

6. It is not in dispute that the applicant was advised by the Doctor, by whom he was treated, to purchase the Bi PAP/C-PAP machine as he was suffering from of 'Sleep Apnea'. The applicant was also got medically examined from the Medical Board of the Railway department as per direction of the learned Additional District Judge Ludhiana at Central Hospital, New Delhi, which has advised that the applicant was suffering of OSA and his history was suggestive of OSA, and required C-PAP/Bi/PAP support and also required sleep study. The relevant opinion of the Medical Board reads as under:-

“ As per his records, patient admitted twice in past with CO2 narcosis, OSA. History is also suggestive of OSA, will require C-PAP/Bi/PAP support and will also require sleep study. Wants to get it done at Divisional Hospital.”

7. A perusal of the above, makes it clear that the applicant is suffering from an ailment for which he had purchased above machine for his better health. The only objection for reimbursement of expenses incurred on purchase of said machine is that in terms of circular dated 8.9.2010 issued by the Railway Board there is no such provision for reimbursement of said amount and it is the Railway authorities who have to provide the said machine to Railway health beneficiary only. One cannot ignore the objection raised by the respondents, in terms of policy (Annexure A-11), that it is Railway authorities who have to purchase the said machine on the basis of advice by the Railway Board for the beneficiary. Equally, it is also not in dispute that the applicant was advised by a Doctor whose opinion later on has been affirmed by the Medical Board of Railway, that he required said machine for his ailment, as opined and noted above. Thus, in my considered view, once the applicant has purchased that machine which is not in dispute, then the respondents are under obligation to reimburse the amount, after verifying it from where it was purchased and admissible amount has to be reimbursed to him by taking undertaking from him that this will become the property of the Railways and the applicant has to return the same, after he is declared fit by the Doctor. He has to be got examined himself, as per the advise by the Doctor of the respondent railways.

8. Accordingly, the O.A. is allowed in the above terms. This order will not be treated as a precedent and it has been passed in the peculiar facts and circumstances of the present case, as medical treatment is found to be a Right guaranteed under Article 21 of the Constitution of India. The O.A. stands disposed of accordingly with no order as to costs. Pending M.A. No. 60/1185/2019 also stands disposed of.

(SANJEEV KAUSHIK)
MEMBER (J)

Dated: 04.09.2019
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