

CENTRAL ADMINISTRATIVE TRIBUNAL
MADRAS BENCH

Dated the Tuesday 18th day of December Two Thousand And Eighteen

PRESENT:
THE HON'BLE MR. R. RAMANUJAM, MEMBER (A)

O.A. 310/518/2017

N. Kuppammal,
Retd. Office Supdt./Rates
Commercial Department/S.Rly
Chennai,
15/8, 2nd Street,
Sowrashtra Nagar,
Choolaimedu, Chennai- 600 094.

....Applicant

(By Advocate: M/s. Ratio Legis)

Versus

1) Union of India Rep. by
The General Manager,
Southern Railway,
Park Town, Chennai-3;

2) The Chief Health Director,
Southern Railway,
Chennai.

...Respondents

(By Advocate: Mr. P. Srinivasan)

O R A L O R D E R

(Pronounced by Hon'ble Mr. R. Ramanujam, Member (A))

Heard. Applicant has filed this O.A. seeking the following relief:-

"To call for the records related to impugned orders

1.No. MD.34/I/PVT/I/2153 dated 16.03.2011 and

2. No. MD.34/I/PVT/I/2153 dated 04.07.2013

Passed by the 2nd respondent and to quash the same and further to direct the respondents to do the necessary to direct the respondents to reimburse the claim of Rs. 3,08,018/- with admissible interest."

2. It is submitted that the applicant who retired from service on attaining the age of superannuation on 31.05.1989 was admitted into a Private Hospital in an emergency for Acute Inferior Wall MI and RVMI on 13.08.2008. After receiving necessary first aid, she underwent angioplasty followed by provision of stent and was discharged on 16.08.2008. She was again discharged on 06.10.2008 after another surgery to provide for stent. The applicant submitted a claim for reimbursement of an amount of Rs. 3,08,018/- which was rejected by the respondents on the ground that the applicant had not opted for 'Retired Employees Liberalized Health Scheme -1997 (RELHS) which allows full medical facilities to retired employees as admissible to serving employees. On the other hand, she had opted to continue under 'Retired Railway Employees Contributory Health Scheme' (RRECHS) allowed medical facilities in Railway Hospital and Dispensaries only, it was stated.

3. Learned counsel for the applicant would submit that having retired in 1989, the applicant was not aware of the RELHS 1997 scheme as it was not given adequate publicity. Had she known the facilities available under the new scheme, she would have opted for the same. As there was no such scheme at the time of retirement of the applicant, she could not be penalised for not opting for the full facilities introduced through the new scheme subsequently. The applicant was only admitted in a private hospital in a condition of emergency and, therefore, her case had to be considered sympathetically and reimbursement of medical expenses allowed accordingly, keeping in view the judicial precedents, it is urged.

4. Learned counsel for the respondents, however, opposes the relief sought alleging that RELHS was given vide publicity. It required certain contribution to be made by the beneficiaries who opted for the same. The applicant neither opted for the scheme nor made any contribution and, as such, she could not be given any benefit under RELHS. The applicant, however, joined the scheme after she underwent the treatment. As such, she could only be covered for future contingencies and not for expenses that had already been incurred, it is contended.

5. I have considered the facts of the case and the submission made by the rival counsel. It is not in dispute that even under RRECHS, the applicant would have been entitled to avail of medical facilities at Railway Hospitals and Dispensaries. Treatment in Railway Hospitals

would necessarily involve fixed and variable costs. Whether treatment is offered at the Railway Hospital or not, the fixed costs such as capital costs of the infrastructure, salary of the staff etc are inescapable for the respondents and, therefore, such costs incurred outside Railway Hospitals cannot be reimbursed. However, the variable costs such as cost of medicines, stent and other allowable consumables would have had to be paid for over and above the fixed costs by the respondents even if the applicant had taken treatment in the Railway Hospital.

6. As it is submitted that the applicant was admitted to the private hospital in an emergency which fact is not disputed, it would be in the interest of justice that the respondents not seek to gain by saving out of the misfortune of the applicant. I am accordingly of the view that the ends of justice would be met in this case if the applicant is allowed to be reimbursed the variables costs only such as cost of materials, medicines etc. which the Railway Hospital would have incurred even if the applicant had been admitted therein for her treatment. This way, there would be no additional liability on the respondents on account of treatment in the private hospital while at the same time, the applicant is relieved of some financial burden on account of such treatment.

7. In the light of the above, the respondents are directed to work out how much variable costs would have been incurred by them at the Railway Hospital for the same treatment as taken by the applicant in the private hospital and reimburse such amount within a period of two

months from the date of receipt of copy of this order. OA is disposed of accordingly. No costs.

(R. RAMANUJAM)
MEMBER (A)

18.12.2018

Asvs.