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**CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH**

**Original Application No.180/00539/2018**

**Wednesday, this the 17<sup>th</sup> day of July, 2019**

**CORAM:**

**HON'BLE Mr.E.K.BHARAT BHUSHAN,                      ...ADMINISTRATIVE MEMBER**

Shri C.J.Mathew,  
aged 63 years,  
S/o Joseph Mathew,  
residing at Cheruvathur,  
Amman Nagar, Pattathanam P.O.,  
Kollam PIN 691 021.

....Applicant

**(By Advocate M/s. Sivashakar & Jani)**

**V e r s u s**

1.     The Union of India,  
        rep by its Secretary,  
        Ministry of Finance,  
        9<sup>th</sup> floor, Lok Nayak Bhavan,  
        Khan Market,  
        New Delhi – 110 003.
2.     The Chief Commissioner of Income Tax,  
        C.R.Building, I.S.Press Road,  
        Cochin PIN....
3.     The Department of Income Tax,  
        Office of the Additional Commissioner of Income Tax,  
        Aayakar Bhavan, Kowdiar,  
        Trivandrum – 695 003.
4.     The Department of Income Tax,  
        Office of the Additional Commissioner of Income Tax,  
        Kollam Range, Kollam,  
        Ayankar Bhavan,  
        Nr Karbala Junction,  
        Railway Station Road,  
        Kollam 691 001.

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5. The Administrative Officer,  
Office of the Commissioner of Income Tax,  
Aayakar, Bhavan, Kowdiar,  
Trivandrum – 695 003.
6. The Office of the Principal Chief Commissioner  
of Income Tax, Kerala,  
C.R.Building, I.S.Press Road,  
Kochi – 682 018. ....Respondents  
**(By Advocate Mr.N.Anil Kumar, for Respondents)**

This application having been heard on 3<sup>rd</sup> July, 2019, the Tribunal on 17<sup>th</sup> July, 2019 delivered the following :

### **ORDER**

OA No.539/2018 is filed by Shri C.J.Mathew, retired Income Tax Officer, against the denial of his claim for medical reimbursement for treatment he has undertaken at CMC, Vellore. The reliefs sought in the OA are as follows:

- (i) Direct respondents to disburse Medical reimbursement to applicant as claimed in Annexure A1 within a time period to be fixed by this Hon'ble Tribunal.
- (ii) Issue such other appropriate direction or order this Tribunal may deem fit and order in the interest of justice.

2. The applicant joined the Income Tax Department on 12.11.1976 and went on to superannuate as ITO on 30.11.2014 . He states in the OA that on 04.01.2014 he had availed Leave Travel Concession and proceeded to Chennai by air along with his wife. However, he collapsed at Chennai Airport, vomited blood and fell unconscious. The wife, with very little support from anyone she knew and depending on some bystanders, who advised her to

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take the applicant to CMC, Vellore proceeded to do so. She did not know of any hospitals in Chennai and was also not aware of the guidelines related to medical reimbursement which indicated that the patient was to be taken to a nearby approved hospital and that there was a CGHS dispensary in Chennai city itself.

3. The applicant was admitted at CMC Hospital, Vellore on 06.01.2014 and was discharged on 12.01.2014; a copy of the discharge summary dated 12.01.2014 is produced and marked as Annexure A1. Annexure A1 is clear evidence of the serious condition in which the applicant was admitted for medical care. He expended a sum Rs.61,376/- for medicine and treatment at CMC, Vellore and placed a claim for the same.

4. The applicant is entitled to get medical reimbursement as per the Central Government Employees Medical Attendance Rules. In case of a serious illness, an employee or a member of his family can be admitted for emergent treatment in the nearest hospital, in the absence of Government hospital nearer than the private hospital and reimbursement of expenditure would be normally allowed in such cases by the Heads of Department as defined under Rule 3(1) (f) of delegation of financial power Rules. The situation in which the applicant found himself was a case of acute emergency and the discharge summary of CMC hospital, Vellore bears this out.

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5. In case of any doubt regarding the claim raised by the employee, it is the Controlling authority to decide regarding the nature of the emergency and in case of any doubt the opinion of the DGHS can also be obtained. It is submitted that the medical records of the applicant and the state of emergency as reasons for approaching the private hospital is in full compliance with the guidelines issued.

6. However, the 4<sup>th</sup> Respondent on 11.12.2014 issued a communication stating that the claim for medical reimbursement has been denied by the 3<sup>rd</sup> Respondent and a copy of the communication is marked as Annexure A2. A copy of the rejection letter dated 08.12.2014 issued by the 3<sup>rd</sup> Respondent is also enclosed, which can be seen at Annexure A3. The applicant strongly rebuts the reasoning adopted by the 3<sup>rd</sup> Respondent in declining the medical reimbursement claim. He contends that the arguments relied upon are incorrect and flimsy. It is stated in Annexure A3 that there were three Government hospitals apart from CMC, Vellore within a radius of 80 kms and Annexure A1 does not disclose criticality and emergency, as it has been recorded in Annexure A1 that “patient is conscious and cooperative”. He has ignored the fact that in Annexure A1 itself it is specifically mentioned that “on presentation he was in encephalopathy, he was started with anticoma measures ..... He responded well and became conscious within 24 hours”. The fact that the patient is conscious and cooperative is a noting made regarding his condition at the time of discharge and not when he was

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admitted. So to deny that the circumstances in which the applicant found himself was not one of emergency is unreasonable.

7. After the receipt of rejection letter the applicant had been approaching the respondents and had also taken up the matter at the Pension Adalat. This was also of no avail.

8. A reply statement has been filed on behalf of the respondents wherein the criticality and emergent nature of the applicant having to approach a private hospital have been denied. The fact of his travel to Chennai on LTC is admitted. It is stated that on 31.07.2014 , the applicant submitted a medical reimbursement claim for Rs.63,208/- for treatment taken at CMS, Vellore. He stated that he had fallen ill at Chennai Airport and was taken to CMC, Vellore by his spouse and others present there. The reason he was taken to CMC, Vellore was because his spouse was unfamiliar of the hospitals and decided to take him to a place which was 80 kms away from Chennai on the advice of bystanders. As per the claim statement and the Annexure A1 discharge summary, the applicant was found suffering from chronic liver disease, Hepatic Encephalopathy Grade II, acute Kidney injury, Diabetes Mellitus and Hypertension.

9. The claim was examined at the level of Principal Commissioner of Income Tax, Thiruvananthapuram, who is the competent authority. After

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going through the facts, the competent authority could not agree that there was a medical emergency requiring treatment at a private hospital and found that relaxation of medical Rules were not justified and decided to reject the application. This was communicated to the applicant in 2014 itself.

10. While the official indeed was suffering from various diseases, emergency cannot be associated with a condition which entails a patient to be taken 80 kms by road over three hours to reach a chosen medical facility, when there were three major Government hospitals and CGHS dispensary in Chennai city itself. The competent authority did not find it a fit case for relaxation of Rules as it could not be seen that the condition of emergency or criticality had been established.

11. It is further stated that the OA is barred by limitation as the rejection of his case was made known to the applicant as early as in December, 2014 itself, as per Annexure A3. He waited for five years to file the OA and the limitation clause comes into play here.

12. The applicant has filed a rejoinder reiterating the contentions raised in the OA.

13. Heard Shri Sivashankar on behalf of the applicant and Shri N.Anilkumar, learned SCGSC for respondents. All pleadings were examined. The short

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point to be considered here is whether the 3<sup>rd</sup> Respondent was right in rejecting the case of the applicant, who had approached a private institution, a good distance away from Chennai, where he had stated that he had collapsed. The reason adopted by the 3<sup>rd</sup> Respondent for rejecting the case is that discharge summary at Annexure A1 mentions that patient was conscious and cooperative. However, in the same discharge summary it is stated that he had to be started on anticoma measures on admission and became conscious within 24 hours. Having said this, the fact that a patient who had collapsed in Chennai was not shown to any hospital nearby, but instead was rushed by road to an institution more three hours away, is also somewhat difficult to comprehend. In any case, we do not want to sit in judgment over the facts of the case. We direct the 3<sup>rd</sup> Respondent to revisit the claim made by the applicant once more. He may consider the discharge summary presented in detail and also other factors which may not be in favour of the patient. We do not believe that the limitation clause is applicable here as the applicant had approached the Adalat in 2017 and the Adalat had rejected his case by order at Annexure A5 which was issued only on 14.05.2018. OA stands disposed of as above. No costs.

**(E.K.BHARAT BHUSHAN)**  
**ADMINISTRATIVE MEMBER**

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**List of Annexures in O.A. No.180/00539/2018**

- 1. Annexure A1:** True copy of discharge summary dated 12/01/2014.
  - 2. Annexure A2:** True copy of respondent communication dated 11/12/2014.
  - 3. Annexure A3:** True copy of rejection letter dated 08/12/2014 issued by the third respondent.
  - 4. Annexure A4:** True copy of letter 10/10/2017 submitted by the applicant to the third respondent.
  - 5. Annexure A5:** True copy of letter dated 14/05/2018 issued by the 6<sup>th</sup> respondent to applicant.
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