

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH
HYDERABAD**

O.A/20/0096/2017

Date of order : 31.01.2019

K.BABY SATYAVATHI,
W/o Vennappa Swamy,
Aged 61 years,
Door No.3B-6-6, Near Venkateswara
Swamy Temple, Western Street, Eluru-1,

Applicant

A N D

1. Union of India represented by Secretary,
Telecommunications, New Delhi 110001,
2. Bharat Sanchar Nigam Ltd, rep. by the Chairman
& Managing Director, BSNL Bhavan,
Janpath, New Delhi 110001,
- 3 The Chief General Manager, BSNL,
AP Telecom Circle, Abids,
Hyderabad,
4. The General Manager,
Telecom District, BSNL,
Eluru 534 001,

... Respondents

Counsel for the applicant : Ms. G.R.Mercy Vijaya for
Dr.P.B.VIJAY KUMAR

Counsel for the respondents : Mr.S.M.T.Sai representing
Ms. KMJD Shyama Sundari,
SC for BSNL
Mrs.K.Rajitha, Sr.CGSC.

C O R A M :
THE HON'BLE MR. B V SUDHAKAR, MEMBER (A)

ORAL ORDER

2. The applicant is aggrieved over non-reimbursement of medical expenses incurred by her husband who worked for the Respondents' organisation.

3. The brief facts of the case are that the applicant's husband joined the Ministry of Telecom on 11.04.1970 as Repeter Station Assistant (RSA). Later, he became an employee of BSNL on its formation. He retired from service on 31.05.2006. In the year 2015, the applicant's husband was diagnosed with Pancreatic Cancer by the medical authorities and was advised to undergo whipples surgery. The representations made by the husband of the applicant for reimbursement of medical expenses incurred were not considered despite seeking the same on many occasions. The applicant's husband died on 15.06.2016. Finally on 04.03.2016, the respondents rejected the claim of the applicant for reimbursement of medical expenses. Hence, the present OA.

4. The contention of the applicant is that her husband had to be taken to Manipal Hospital, Vijayawada in view of the emergency involved. A sum of Rs.4,31,120/- and Rs.81,740/- were incurred towards the cost of operation and other expenses. Besides, towards chemotherapy treatments, a sum of Rs.3,43,347/- had to be incurred at the Indo-American Hospital, Hyderabad. All the receipts have been forwarded to Respondent No.4. The respondents' organization rejected the claim on the ground that prior permission has not been taken before undergoing the treatment. The applicant contends that to save the life of her late husband, it was necessary to go to the hospital immediately.

5. The respondents state that the applicant's husband submitted bills to the extent of Rs.5,05,360/- issued by the Krishna Institute of Medical Sciences Cancer Hospital, Hyderabad and another bill for Rs.2,28,375/- issued by Basavatharakam Indo-American Cancer Hospital, Hyderabad. The claims made were rejected as both the hospitals were not empanelled by the respondents' organisation. The respondents contend that the applicant's husband should have gone to any of the empanelled hospitals for surgery after diagnosis has been done. The bills dated 18.2.16 and 6.10.16 were not received by the Respondents' office on any occasion. Prior to the surgery, there was no intimation to the respondents' organisation for considering his case. The claims were thus rejected as per the guidelines of the respondents organization.

5. Heard Ms. G.R.Mercy Vijaya, learned Advocate for Dr. P.B.Vijay Kumar, learned counsel for the applicant and Mr. S.M.T. Sai, learned Advocate representing the learned standing counsel for the respondents. The material papers and other documents submitted were perused.

7. (i) The applicant's husband did suffer from cancer. The medical bills issued by the hospitals in question testify this fact. The applicant's husband was a retired employee. Cancer is a fatal disease. The complications in such a disease are un-predictable. Sometimes, there

may be a sudden requirement of medical attendance. On such occasions, the applicant's husband had to be moved to private hospitals not empanelled by the respondents' organization. At that juncture of time, it may not be practical to follow the procedure of prior intimation or seeking approval of respondents. The very purpose of covering medical expenses is to ensure that health of employees, including pensioners, is taken care by the respondents' organization as a welfare measure. The facts in such cases that are to be essentially verified are whether the claim is genuine and proper bills have been submitted. If the claim is genuine and due to emergency, if certain minor procedural requirements could not be followed, such lapses should not be considered as an impediment in allowing the reimbursement of medical expenses incurred. Saving a human life is paramount rather than the procedure prescribed. Procedures are laid down to filter bogus claims. The prime objective is to save a life. In the present case, the applicant's husband suffered from Cancer and had to be admitted in hospitals due to emergency. The claim being genuine, the respondents ought to have considered it sympathetically and allowed it adopting a human approach. In this regard, observations of Hon'ble Supreme Court in ***Shiva Kant Jha Vs. Union of India in Writ Petition (Civil) No.694 of 2015*** are relevant and are applicable to the present case. The observations are as under:

"It is a settled legal position that the Government employee during his life time or after his retirement is

entitled to get the benefit of the medical facilities and no fetters can be placed on his rights. It is acceptable to common sense, that ultimate decision as to how a patient should be treated vests only with the Doctor, who is well versed and expert both on academic qualification and experience gained. Very little scope is left to the patient or his relative to decide as to the manner in which the ailment should be treated. Specialty Hospitals are established for treatment of specified ailments and services of Doctors specialized in a discipline are availed by patients only to ensure proper, required and safe treatment. Can it be said that taking treatment in Specialty Hospital by itself would deprive a person to claim reimbursement solely on the ground that the said Hospital is not included in the Government Order. The right to medical claim cannot be denied merely because the name of the hospital is not included in the Government Order. The real test must be the factum of treatment. Before any medical claim is honoured, the authorities are bound to ensure as to whether the claimant had actually taken treatment and the factum of treatment is supported by records duly certified by Doctors/Hospitals concerned. Once, it is established, the claim cannot be denied on technical grounds. Clearly, in the present case, by taking a very inhuman approach, the officials of the CGHS have denied the grant of medical reimbursement in full to the petitioner forcing him to approach this Court.

Xxxx xxxx xxxx xxxx
 Xxxxx xxxxx xxxx xxxxx

Moreover, the law does not require that prior permission has to be taken in such situation where the survival of the person is the prime consideration.”

(ii) As seen from the observations of the Hon’ble Supreme Court, the important aspect that should be looked into is as to whether the claim made is genuine. The technical formalities of complying with the procedure should not stand in the way of an individual to get treated to save his life. Besides, it is proper for the patient to go to the Doctor in whom he has confidence and

ability to provide the treatment required. Such right should not be denied since life is precious. The respondents need to have adopted a human approach to resolve the grievance.

(iii) Thus, based on facts of the case and the legal principles set by the Hon'ble Supreme Court, the applicant has made out a case which fully succeeds.

(iv) The respondents are, therefore, directed to reimburse the medical expenses claimed by the applicant as per the CGHS rates after due verification of the bills.

(v) Time allowed to implement the order is three months from date of receipt of this order.

(vi) The OA is accordingly allowed. There shall be no order as to costs.

(B V SUDHAKAR)
MEMBER (A)