

CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH, CAMP AT NAGPUR

ORIGINAL APPLICATION No.2100/2017

This the 23<sup>rd</sup> day of August, 2019

CORAM: R.N. SINGH, MEMBER (JUDICIAL)

Pralhad s/o Baburao Samarth,  
Aged about 77 years, Occ. Retired,  
R/o Plot No.9, New Shibaji  
Nagar, Abhay Nagar Road,  
Nagpur-27  
Off-o/o TDM, Betul (MP)

... Applicant

(By Advocate Shri A.K. Waghmare )

VERSUS

1. Chief General Manager, Telecom,  
Hosangabad Road, Bhopal, Tah.  
And District-Bhopal (MP)
2. Controller of Communication,  
(Accounts), M.o Communication,  
Office of the Chief General  
Manager, Telecom, Hosangabad,  
Bhopal (MP).
3. The Telecom District Manager,  
BSNL, Near Kashi Talav, Sadar,  
Betul, Tah. And District-Betul,  
(MP).

... Respondents

(By Advocate Shri R.G. Agrawal )

Reserved on: 23.07.2019,

Pronounced on: 23.08.2019.

O R D E R

Per: R.N. Singh, Member (J)

This is forth round of litigation. By way  
of the present OA the applicant is challenging the  
inaction of the respondents is not paying the full



medical claim reimbursement in respect of the emergent treatment of his wife.

2. The applicant has filed the present OA under Section 19 of the Administrative Tribunals Act, 1985 seeking the following reliefs:-

"(A). Direct the respondents to pay the principle amount of Rs.2,94,899/- medical claim submitted by applicant on 13/04/2013 along with the cost of Rs.50,000/- and interest @ Rs.12% as per the directions of this Hon'ble Tribunal dated 08/02/2016 in O.A.No.2255/2014 totalling to Rs.4,86,451/- as on 13.04.2017, by excluding the amount of Rs.1,48,600/-;

(B). Further be pleased to grant appropriate compensation considering the delay in tactics and change of stand from time to time in paying medical claim since 2013;

(C). Saddle the costs of this application upon the respondents;

(D). Grant any other relief in favour of the applicant which this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the case."

3. The facts of case as contended by the applicant are that the applicant's wife was suffering from chronic heart disease and was admitted in the Spadan Hospital at Nagpur in the emergency ward on 26.02.2013. She had undergone surgery immediately after admission but the operation could not save her life and she expired on 07.03.2013. The aforesaid Spandan Hospital is authorized in the list of panel Hospitals of BSNL. The applicant



submitted his claim of Rs.2,94,889/- for treatment of his wife to the Telecom District Manager, BSNL, Betul by RPAD on 13.04.2013 but he did not receive any response. On 10.07.2013 he filed an application under RTI regarding status of his medical bill. On 04.09.2013 he received a letter from the Assistant General Manager (Administration) asking him to submit the ex-post facto permission for indoor treatment taken outside the circle and to clarify whether the Hospital is authorized by the BSNL, Maharashtra Circle. The applicant sent reply on 04.10.2013 by which he applied for the ex-post facto permission for the treatment of his wife under extreme emergency taken outside the circle enclosing the list of empanelled Hospitals.

4. However, in spite of submitting his medical claim vide letter dated 13.04.2014, as he has not received any response from the respondents the applicant filed an O.A.No.2164/2013 before this Tribunal which was disposed by this Tribunal vide order dated 17.01.2014 with the following directions:-

*"Since the application of the applicant for medical claim along with all bills is still unactioned, the Respondent No.1 i.e. Chief General Manager, Telecom, Hoshanabad Road, Bhopal is directed to look into the matter*



and take appropriate steps to redress the grievances of the applicant within eight days from the date of receipt of a copy of this order."

5. It is contended that despite the specific directions, the respondents had not paid the medical claim. Later on the respondents sanctioned Rs.1,89,944/- as "admissible amount" to be paid to the applicant vide order dated 27.03.2014.

6. Thereafter, in compliance of the order of this Tribunal the respondents have passed order dated 10.07.2014 wherein they have informed that the bill submitted by the applicant for RS.2,94,889/- was rejected by the competent Authority as the claim did not fulfill the required condition as prescribed under BSNL MRS.

7. Aggrieved with the aforesaid order dated 10.07.2014 the applicant had filed O.A.No.2255/2014 before this Tribunal (Camp at Nagpur) which was disposed of vide order dated 08.02.2016 with the following directions:-

"14. In the above circumstances, the OA is allowed. The respondents are directed to process the claim of the applicant for medical reimbursement as per the extent rules and reimburse the admissible amount to the applicant, along with 12% interest from the date of claim for reimbursement to the actual date of payment within four weeks from the date of receipt of this order. The applicant will have the liberty to approach an appropriate forum, if he is still aggrieved by the orders of the respondents regarding the



medical reimbursement.

15. As mentioned in paragraph 13, I intend to impose an exemplary cost on the respondents. I, therefore, impose a cost of Rs.50,000/- on the respondents to be paid to the applicants for all the trauma caused to him in being denied the claim for medical reimbursement on the treatment of his wife who expired during the treatment. Such punishment should serve as a deterrent to officials in charge of processing medical reimbursement claim in future in the respondents office. The respondents are at liberty, if they so desire, to fix the responsibility for the negligence shown by the concerned officials and recover the cost of Rs.50,000/- from them.

8. When nothing positive had come from the respondents the applicant preferred a CP No.15/2016 before this Tribunal at Nagpur wherein the respondents submitted an affidavit dated 24.09.2016 enclosing a copy of the approval of medical reimbursement claim in which alleged admissible amount (as per applicable CGHS rate) of Rs.72,500/- along with interest of 12% amounting to Rs.26,100/- and the cost of Rs.50,000/- totalling to Rs.1,48,600/- was sanctioned. It was also stated therein that the same has already been paid to the applicant to which the learned counsel for the applicant reported no objection but submitted that he is entitled for reimbursement of higher amount. The relevant portion of the order dated 28.09.2016 passed in the aforesaid CP reads as under:-



"3. As far as the order dated 08.02.2016 of this Tribunal is concerned, the order clearly indicates that the respondents shall process the claim for medical reimbursement as per extant rules and reimburse the admissible amount to the applicant along with 12% interest from the date of claim for reimbursement to the date of payment. In addition a cost of Rs.50,000/- was also imposed. It appears from the approval letter furnished by the respondents that they have processed the case as per CGHS Rules and paid the admissible amount along with 12 % interest and penal cost.

4. Therefore, we are of the view that the order passed by this Tribunal has been complied with by the respondents. In case he disputes the amount that is actually admissible to him as per extant rules it is open to him to agitate the matter in appropriate forum. Since the order has been complied with the Contempt Petition, therefore, stands closed."

9. The respondents in CP No.15/2016, filed an application and impliedly waived their Office order dated 06.05.2016 and 27.03.2014 and further admitted to pay the actual amount of medical bill of Rs.2,94,899/- + Rs.50,000/- towards costs and 12% interest, totalling to Rs.4,68,754/- vide M.A.No.119/2016 for extension of time for compliance of judgment dated 08.02.2016 and the said stand was also reiterated by the respondents while arguing before this Tribunal on 21.07.2016 and accordingly the order was passed on the same date. In the aforesaid MA in para-4 the respondents have categorically stated as under:-

"3. It is submitted that after receipt of



copy of order passed by Hon'ble Tribunal, the respondents have acted sincerely and bonafidely to impalement the judgment rendered by the Hon'ble Tribunal, It is submitted that the Telecom District Manager of Betul is not Competent Authority and he has to seek approval from the Higher Authority situated at Bhopal and New Delhi and therefore, the respondents want more time for implementing the judgment rendered by the Hon'ble Tribunal. That the Hon'ble Tribunal has directed to pay the amount of Rs.2,94,889/- with interest to the applicant along with cost of Rs.50,000/-."

10. It is further contended that the respondents vide their reply dated 31.08.2016 in CP No.15/2016 changed their stand. However, as the liberty was given to the applicant while deciding the CP No.15/2016 that "in case he dispute the amount i.e. actually admissible to him as per extent rules, it is opened to him to agitate the matter in appropriate forum". As such the applicant has filed the present OA as the "admissible amount" assessed and ordered by the respondents changed from time to time.

11. The applicant has taken the following grounds:-

(i). The respondents are not paying the medical claim in toto to the applicant is illegal, arbitrary.

(ii). The respondents are changing their stand I respect of admissible amount which is shocking,



illegal and arbitrary.

(iii). The respondents on 27.03.2014 assessed the admissible amount to the tune of RS.1,89,944/- when there was no order of cost and interest and they have rejected the entire claim of Rs.189,944/- after assessment of the admissible claim which is illegal and arbitrary.

(iv). The respondents vide Office order dated 06.05.2016 admissible amount was sanctioned to the tune of rs.72,500/- only as against earlier amount of Rs.1,89,944/- which is shocking, illegal and arbitrary.

(v). The respondents have realized their mistake and therefore, they filed an application bearing M.A.No.119/2016 dated 06.06.2016 before this Tribunal and stated that they are ready to pay the entire amount as asked by the applicant in the CP I.e Rs.4,68,754/- which includes principle amount of Rs.2,94,899/- plus cost of Rs.50,000/- and interest of 12% i.e. after passing the O/O dated 06.05.2016.

(vi). The respondents themselves admitted before the Court in respect of payment of entire amount and later on changed the stand which is illegal and



also against the facts on record.

(vii). The respondents thus renounced and waived their stand in respect of O/o dated 06.05.2016 and further admitted before the Court to pay the entire amount and therefore, the respondents are bound to pay the entire medical claim of Rs.4,68,754/- excluding the payment of Rs.1,48,600/- which was paid as per O/o dated 06.05.2016.

12. The respondents have contested the claim of the applicant by filing a detailed Counter reply wherein it has been stated that the applicant has filed the present OA challenging the total inaction of the respondents in not paying the full medical claim/reimbursement. It is submitted that the applicant has not submitted the bills in the prescribed form and without attaching the necessary documents as required under the rules. The applicant has filed his present O.A.No.2164/2013 which was disposed of at admission stage without hearing the respondents vide order dated 17.01.2014. The applicant has filed second O.A.No.2255/2014 which was disposed of by this Tribunal vide order dated 08.02.2016 directing the



respondents to pay the admissible amount within 4 weeks and a cost of Rs.50,000/- plus interest of 12%. Thereafter, the applicant had preferred a CP No.15/2016 which was dismissed by this Tribunal vide order dated 28.09.2016. It is submitted that vide sanction memo dated 06.05.2016 Rs.72,500/- was paid as per applicable Central Government Health Scheme rates and Rs.26,100/- towards interest @ 12% and Rs.50,000/- towards costs as ordered by this Tribunal. Thus, total amount of Rs.1,48,600/- was paid to the applicant. However, the applicant by filing the present OA is seeking review of the order passed by this Tribunal in O.A.No.2255/2014 and on that count the present OA is not maintainable. It is submitted that there is no merit or substance in any of the contentions of the applicant and the OA deserves to be dismissed.

13. The applicant has filed his written submissions stating therein that the applicant has submitted his claim on 13.04.2013 for medical reimbursement in prescribed Performa along with all medical bills amounting to Rs.2,94,889/-. The respondents have sanctioned Rs.1,89,944/- vide order dated 27.03.2014 but after four months i.e.



on 10.07.2014 the entire claim of the applicant was rejected on the ground that it is not permissible. Aggrieved with the aforesaid the applicant filed his second O.A.No.2255/2014 which was disposed of vide order dated 08.02.2016 directing the respondents to pay the admissible claim within four weeks with cost of Rs.50,000/- and interest @ 12% per annum from the date of the claim i.e. 13.04.2013. The respondents have all of sudden reduced the claim to Rs.72,500/- i.e. firstly the claim was sanctioned to Rs.1,89,500/-. Secondly the entire claim was rejected and thirdly the claim was sanctioned to the tune of Rs.72,500/- excluding interest and cost amount and thus from time to time, the stand was changed by the respondents. In the month of May, 2016 an amount of Rs.1,48,600/- was paid to the applicant as per letter dated 06.05.2016.

14. Thereafter, for the remaining amount the applicant had filed the CP No.15/2016 before this Tribunal. However, the respondents have filed M.A.No.119/2016 for extension of time in which they have accepted the entire claim of the applicant i.e. principle amount of Rs.2,94,899/- plus



interest and cost. Upon the aforesaid statement made by the respondents this Tribunal had passed the order dated 21.07.2016 directing the respondents to comply with the order positively before 31.08.2016 failing which the respondent no.3 shall remain present in the Court. Thereafter, the respondents have taken u turn and denied the entire claim and went upon the earlier Office order dated 06.05.2016. the applicant has also prayed that at this stage the respondents were estopped from changing the stand as they had admitted in M.A.No.119/2016.

15. The respondents have also filed Additional Reply reiterating the averments as already stated in their reply to which the applicant has also filed his reply reiterating more or less same averments as already stated in his earlier pleadings. The applicant has also submitted a bifurcation chart in his reply in respect of the claim of the applicant.

16. I have gone through the O.A. along with Annexures A-1 to A-10 accompanying the O.A.

17. I have also gone through the Reply filed on behalf of the respondents, along with Annexure R-1



and R-4 annexed and Additinal reply filed on behalf of both the parties.

18. I have heard the learned counsels on behalf of the applicant and respondents and have considered the facts and circumstances and law points involved in the case.

19. The issue for consideration in this OA is whether applicant is eligible for reimbursement of medical expenses or not. The undisputed facts of case of the applicant are that the applicant's wife was suffering from chronic heart disease and was admitted in the Spadan Hospital at Nagpur in the emergency ward on 26.02.2013. She had undergone surgery immediately after admission but the operation could not save her life and she expired on 07.03.2013. The applicant had submitted his claim of Rs.2,94,889/- for treatment of his wife to the Telecom District Manager, BSNL, Betul by RPAD on 13.04.2013 but he did not received any response. Thereafter, he filed an O.A.No.2164/2013 before this Tribunal which was disposed by this Tribunal vide order dated 17.01.2014. In compliance of the order of this Tribunal the respondents have passed order dated 10.07.2014 wherein they have informed



that the bill submitted by the applicant for RS.2,94,889/- was rejected by the competent Authority as the claim did not fulfill the required condition as prescribed under BSNL MRS. Aggrieved with the aforesaid order dated 10.07.2014 the applicant had filed O.A.No.2255/2014 before this Tribunal (Camp at Nagpur) which was disposed of vide order dated 08.02.2016 with certain directions. However, as nothing was heard from the respondents, hence, the applicant preferred a CP No.15/2016 before this Tribunal at Nagpur wherein the respondents submitted an affidavit dated 24.09.2016 enclosing a copy of the approval of the respondents towards medical reimbursement claim in which admissible amount as per applicable CGHS rate Rs.72,500/- along with interest of 12% amounting to Rs.26,100/- and the cost of Rs.50,000/- totalling to Rs.1,48,600/- was sanctioned. It was claimed that the same had already been paid to the applicant to which the learned counsel for the applicant reported no objection but submitted that the applicant was entitled for reimbursement of higher amount. Moreover, the respondents in CP No.15/2016, filed an application (M.A.No.119/2016)



and impliedly waived their Office order dated 06.05.2016 and 27.03.2014 and further admitted to pay the actual amount of medical bill of Rs.2,94,899/- + Rs.50,000/- towards costs and 12% interest, totalling to Rs.4,68,754/- vide M.A.No.119/2016 for extension of time for compliance of judgment dated 08.02.2016 and the said stand was also reiterated by the respondents while arguing before this Tribunal on 21.07.2016 and accordingly the order was passed on the same date. However, the respondents have claimed that the applicant has not submitted the bills in the prescribed form and without attaching the necessary documents as required under the rules.

I find that respondents have been taking inconsistent stand to delay the lawful claim of the applicant. They have compelled the applicant to approach this Tribunal even fourth time by way of this OA for the same relief which is earlier been adjudicated by this Tribunal and undertaking given by the respondents to comply with the same.

20. Moreover, law is settled on the issue involved in the present OA. The Hon'ble Apex Court in *Shiva Kant Jha vs. Union of India in Writ*



**Petition (Civil) No.694 of 2015 dated 13.04.2018.**

The relevant paras 12 to 14 of the aforesaid judgment is reproduced as under:-

"12. With a view to provide the medical facility to the retired/serving CGHS beneficiaries, the government has empanelled a large number of hospitals on CGHS panel, however, the rates charged for such facility shall be only at the CGHS rates and, hence, the same are paid as per the procedure. Though the respondent-State has pleaded that the CGHS has to deal with large number of such retired beneficiaries and if the petitioner is compensated beyond the policy, it would have large scale ramification as none would follow the procedure to approach the empanelled hospitals and would rather choose private hospital as per their own free will. It cannot be ignored that such private hospitals raise exorbitant bills subjecting the patient to various tests, procedures and treatment which may not be necessary at all times.

13. 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. Speciality 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 Speciality 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.

14. This is hardly a satisfactory state of affairs. The relevant authorities are required to be more responsive and cannot in a mechanical manner deprive an employee of his legitimate reimbursement. The Central Government Health Scheme (CGHS) was propounded with a purpose of providing health facility scheme to the central government employees so that they are not left without medical care after retirement. It was in furtherance of the object of a welfare State, which must provide for such medical care that the scheme was brought in force. In the facts of the present case, it cannot be denied that the writ petitioner was admitted in the above said hospitals in emergency conditions. 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. The doctors did his operation and had implanted CRT-D device and have done so as one essential and timely. Though it is the claim of the respondent-State that the rates were exorbitant whereas the rates charged for such facility shall be only at the CGHS rates and that too after following a proper procedure given in the Circulars issued on time to time by the concerned Ministry, it also cannot be denied that the petitioner was taken to hospital under emergency conditions for survival of his life which requirement was above the sanctions and treatment in empanelled hospitals."

21. The Hon'ble High Court of Delhi in S.K. Sharma vs. Union of India & Another reported in ILR (2002) 1 Delhi 709 has ruled as follows:-



"9. It is in this context that the Supreme Court in **State of Punjab and Ors. Vs. Mohinder Singh Chawla etc.** observed as under:

"it is now settled law that right to health is integral to the right to life. Government has a constitutional obligation to provide health facilities. If the Government servant has suffered an ailment, which required treatment at, a specialized approved hospital and on reference whereat the government servant has undergone such treatment therein, it is but the duty of the State to bear the expenditure incurred by the government servant. Expenditure, thus, incurred requires to be reimbursed by the State to the employee".

10. The Supreme Court was thus of the view that the State having had the constitutional obligation to bear the medical expenses of Government servants while in service or after the retirement from service as per the policy of the Government. The Government is required to fulfill the constitutional obligation.

11. In **Surjeet Singh Vs. State of Punjab and Ors.** The Supreme Court held that a person is entitled to take steps for self-preservation and does not have to stand in a queue before a medical board before availing of medical facility. This was specially so when State itself had brought the Escorts Hospital on a recognised list.

12. The Petitioner does not cease to be a Central Government pensioner merely because he is not covered by the CGHS scheme. A differentiation cannot be made between the pensioners staying indifferent parts of the country depending upon whether they are in CGHS area or non-CGHS area. In this behalf in case of **B.R. Mehta Vs. Union of India and Ors.** on the basis of material placed before the court it was noted that the Government had not worked out any criteria for reimbursement in cases of persons who are settled in non-CGHS area but were still considering the question. In such a situation it would be a travesty of justice if a retired pensioner is deprived of reimbursement of medical expenses only on the basis that he is not a member of the CGHS scheme and in my considered view any



differentiation between persons who are all government pensioners and some of whom are living in CGHS areas and some are in non-CGHS areas would be violative of Article 14 of the Constitution of India.

13. ....

14. It may be noted that in another case of **Narender Pal Singh Vs. Union of India and Ors.**, 1999 (2) CLR 904 it was observed as under:-

3. The petitioner has admittedly suffered the ailment and required urgent and immediate treatment in an emergency. The plea of the Government that he has not taken prior sanction for treatment in non-CGHS Hospital is clearly erroneous and cannot be entertained. 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. It is always open for the Government to grant ex-post facto sanction subject to verification of the claim which has not been denied in the present case.

5. The law is therefore, well settled that right to health is an integral part of life and the Government has constitutional obligation to provide the health facilities to its employees or retired employees and in case an employee requires a specialised treatment in an approved hospital it is the duty of the Government to bear or reimburse the expenses. The petitioner in this case had to be operated in an emergency as he suffered a heart problem and in case he had waited for a prior sanction he might not have survived. Therefore, in this situation it is the duty of the Government to grant ex-post facto sanction and not deny the claim of the petitioner on technical and flimsy grounds."

15. I am thus of the considered view that the petitioner cannot be discriminated against merely because he is not a member of the CGHS scheme as he is staying in a non-CGHS area. The petitioner had made claim in August, 1998 and on the basis of the fact stated therein ex post facto approval could have been granted but instead the claim of the petitioner was rejected. The subsequent letter of the petitioner dated 01.06.1999 to make him a card holder has also not evoked



any response. The right to appropriate medical assistance cannot be denied on technicalities and flimsy grounds. The petitioner has spent almost 2/3<sup>rd</sup> of his retiral benefits on the treatment of his wife and himself and that too, in a Government recognised hospital for heart diseases. It would be extremely unfair and unjust to deny the petitioner the reimbursement in respect of the same."

22. The CGHS Scheme under the Ministry of Health and Family Welfare (MOHFW) provides comprehensive medical care facilities to Central Government employees, pensioners and their dependents residing in CGHS covered cities. Under the Scheme, even the pensioners residing in non-CGHS areas may obtain CGHS card from the nearest CGHS covered city and avail the services of CGHS. The Central Government has empanelled certain hospitals in order provide the intended medical aid to the beneficiaries.

23. The learned counsel for the applicant vehemently contends that medical facility is a fundamental right of a Government employee. The Government is bound to take care of the employees even after retirement. Hence, the denial of his rights, despite the settled laws and as provided for under the Constitution of India is illegal.

24. In view of the facts and circumstances as discussed above and considering the decisions



rendered by the Hon'ble Apex Court referred to herein above, there is no reason to arrive at a different conclusion except to conclude that the OA is having merit. Accordingly, OA deserves to be allowed and is accordingly partly allowed with the following directions:-

(i). The applicant is entitled for the payment of the principle amount of Rs.2,94,899/- of medical claim submitted by applicant on 13.04.2013.

(ii). The respondents shall deduct the amount of Rs.72,500/- and interest of Rs.26,100/- as mentioned in para-8 above vide their sanctioned order dated 06.05.2016 (Annexure A-6).

(iii). The applicant is also entitled for interest @ rate as applicable on GPF on the remaining amount from the date of it became due till the date of its payment.

(iv). The respondents are directed to pay the remaining principal amount with interest as indicated above.

(v). The respondents are also directed to pay a cost of Rs.5000/- (Rupees Five Thousand only).

(vi). The aforesaid exercise shall be completed within eight weeks of receipt of a



certified copy of this order.

25. The OA is disposed of with the above directions.

(R.N.SINGH)  
MEMBER (J)

amit/-

JD  
26/8/19