

CENTRAL ADMINISTRATIVE TRIBUNAL

CHANDIGARH BENCH

O.A.NO.062/00088/2019

Decided on : 29.07.2019

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

Mohd. Muzaffer Rather,

Age 59 years,

Son of Sh. Abdul Razzak Rather,

Senior Accounts Officer,

Defence Pension and Disbursement office,

Srinagar (J&K)-190004.

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Applicant

Versus

1. Union of India through Secretary, Ministry of Defence, South Block, New Delhi-110001.
2. Controller General of Defence Accounts, Ullan Batra Road, Delhi Cantt-110010.
3. Principal Controller of Defence Accounts, Northern Command, Jammu-180003.

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Respondents

**Present: Mr. Jagdeep Jaswal, Advocate, proxy counsel for
Mr. Shailender Sharma, Advocate, for the applicant.
Mr. V.K. Arya, Advocate, for respondents.**

O R D E R (oral)
(BY HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J)):

The applicant has invoked the jurisdiction of this Tribunal under Section 19 of the Administrative Tribunals Act, 1985, seeking quashing of the order dated 17.8.2018 (Annexure A-6) passed by respondent no.3 whereby his claim of medical reimbursement has been declined on the ground that treatment was taken in a private hospital without taking any approval from Head of Office and seeks issuance of direction to the respondents to reimburse the same with interest.

2. The facts of the case are largely not in dispute. The applicant is working as a Senior Accounts Officer, in the office of Defence Pension and Disbursement Officer (DPDO), Srinagar. In February, 2018, he suffered some health problem and visited SKIMS Hospital, Srinagar and was diagnosed of Right Renal Mass (kidney Problem). It required Robotic Surgery, which was not available in the said Hospital. He was shifted to Fortis Escorts Hospital, Delhi and admitted there on 14.2.2018 and was discharged after operation, which involved an expenditure of Rs.3,75,041/-. His claim was declined vide letter dated 17.8.2018, on the ground that treatment was taken in a private hospital and he should have taken treatment in a Government Hospital. Hence, the O.A.

3. The respondents have filed a reply opposing the claim of applicant. They submit that plea that Robotic Surgery was not available in SKIMS Hospital, is not born out from any documentary evidence. Moreover, he has not disclosed that no such benefit was available in AIIMS New Delhi or PGIMER, Chandigarh. Not only that, had he been a CGHS beneficiary (which he is admittedly not), he would not have been required to obtain prior

permission of Head of Department. CGHS rates are charged only from CGHS beneficiary patients only and higher charges are taken from non-CGHS beneficiary. The applicant was non-CGHS beneficiary and as such he should have taken the prior permission, in terms of OM dated 5.6.2014 (Annexure R-2). Moreover, the Government Hospital, where applicant initially took treatment has referred him for higher centre, on his own insistence. Thus, he should have gone to AIIMS, New Delhi or PGIMER, Chandigarh. The charges for NABH CGHS for Robotic partial Nephrectomy are Rs.23,144/- only.

4. I have considered the pleadings available on file.

5. It is not in dispute that SKIMS Medical College & Hospital, Bemina, where applicant had gone for initial medical check-up, had advised that since Robotic Facility was not available in that Hospital, on insistence of applicant, he was referred to any higher centre for robotic surgery where it was available. The applicant claims that considering the emergency, he was taken to Fortis Hospital where such facility was available and incurred a sum of Rs.3,75,041/- but, as observed above, the slip shows that applicant was referred to higher centre for such surgery, on his own request. It is also not matter of dispute that applicant is a non-CGHS beneficiary and he had to take prior approval of the Head of Office, for such a treatment. On 29.7.2019, the applicant was granted three weeks time to file replication, which has not been done till date. Thus, one cannot find fault with the action of the respondents in rejecting the claim of the applicant.

6. It is not in dispute that the applicant has indeed undergone the indicated procedure. The only objection taken by the respondents is of taking treatment from a Private Hospital and without prior permission. In the absence of permission, the full benefit as claimed by applicant on the basis of Policy, cannot be entertained. However, I am of the opinion that

the reimbursement at Fixed package Rate, which is stated to be Rs.23,144/- should be allowed to the applicant. The respondents are directed to consider and reimburse this amount to the applicant within a period of two months from the date of receipt of certified copy of this order. The parties are, however, left to bear their own costs.

(SANJEEV KAUSHIK)
MEMBER (J)

PLACE: CHANDIGARH
DATED: 29.07.2019

HC*

