

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.2402/2003

New Delhi, this the 18th day of August, 2004

Hon'ble Shri S.K. Naik, Member(A)

O.P. Mathur
B-253, DDA MIGats
East of Loni Road, Delhi-110093
(Shri Sant Lal, Advocate)

.. Applicant

versus

Union of India, through

1. Secretary
Ministry of Health & Family Welfare
Nirman Bhavan, New Delhi
2. Director General, Health Services
Nirman Bhavan, New Delhi
3. Chief Postmaster General
Delhi Circle, Meghdoot Bhavan
New Delhi

.. Respondents

(Mrs.Shail Goel, Advocate)

ORDER

The grievance of the applicant in the present application is that against the claim of Rs.69586/- towards reimbursement of medical expenses incurred by him for the treatment of his wife in Ganga Ram Hospital, he has received only an amount of Rs.35753 and therefore respondents be directed to reimburse the balance amount to him.

2. According to the learned counsel for the applicant, Smt. Hansmukhi Devi, w/o the applicant, a retired Sr. Postmaster, was admitted to Ganga Ram Hospital on 10.8.2002 for treatment of Intertrochanteric fracture left hip and discharged on 20.8.2002 after remaining there as an indoor patient. The applicant has paid Rs.69586 to the hospital whereas he has received only Rs.35753. According to the counsel, the applicant is entitled for full reimbursement as the said hospital is recognized under CGHS for the purpose of said treatment. Though the applicant has made several representations in this regard, they have not yielded any result. Hence this application.

3. Respondents have contested the case and have stated in their reply that the Ganga Ram Hospital is not approved for orthopedic treatment under CGHS by the Ministry of Health but only for cardiology, cardiac surgery and diagnostic procedures etc. Thus, the treatment of the applicant's wife was treated to have been undertaken in a private hospital, ~~unauthorisedly~~.

4. Counsel for the applicant has repeatedly claimed ~~the~~ since the averment in the OA that Sir Ganga Ram Hospital where applicant's wife was treated is recognized by the Government, the applicant is entitled to reimbursement of full amount. This

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claim however is misconceived. As has been rightly stated by the respondents in their reply, Sir Ganga Ram Hospital is recognized under the CGHS, Delhi only for Cardiology, cardiac surgery and diagnostic procedures, renal procedure, renal transplantation, gastroenterology procedure, liver transplantation, genetic lab procedure. They have further stated that it was not approved for orthopaedic treatment. The contention of the learned counsel for the applicant ^{herefore} cannot be held to be correct.

5. I have heard the learned counsel for the parties and perused the records.

6. Counsel for the applicant is placing reliance on the judgement dated 29.1.2003 ⁱⁿ OA 978/2003 ^{wherein} which the applicant was allowed full reimbursement for angiography and angioplasty conducted on him in Ganga Ram Hospital. According to him, the present case is fully covered by this judgement. On perusal of the judgement, however, I find that the said case pertains to a retired employee of the Railways. Firstly, Railways have their own rules for medical treatment and reimbursement of medical expenses. Secondly in that case, applicant's wife had been rushed to the casualty department of Sir Ganga Ram Hospital in an emergency and was admitted to the ICCU on the advice of Cardiologist and it was a case of Angiography followed by angioplasty. The facts of the case in hand do not have any similarity. Apart from this, being that of a retired Central government employee on whom rules of CGHS are admissible, the patient herein was not admitted due to emergency. It was a case of fracture due to a slip. As per procedure prescribed by CGHS, it was necessary for the beneficiary to have obtained prior permission for obtaining treatment from any hospital recognized by CGHS for this purpose. Sir Ganga Ram Hospital, as has already been stated, is not recognized for the purpose of orthopaedic treatment and the reliance placed by the applicant on the judgement in OA 978/2002 (supra) will not render him any assistance.

7. Counsel for the applicant has further referred to the judgement of Hon'ble Delhi High Court in V.K.Gupta Vs. UOI in CWP 4305/2001 decided on 5.4.2002 (2003) 1 SLJ 195 and has contended that the High Court also ordered full reimbursement of the medical expenses for the treatment of the petitioner in the said case in the Escort Heart Institute. Even this case, I am afraid, will not assist the applicant inasmuch as the patient therein had been referred to Escorts Heart Institute after due permission and the said institute is recognized as a referral hospital by the CGHS. The dispute therein was whether to make reimbursement on the old rates or as per revised circular. Thus no parallel can be drawn to the facts of the present case.

8. I find that the applicant has been reimbursed as the per rates on items admissible by the CGHS. CGHS has recognized some hospitals/nursing homes/diagnostic centers in order to facilitate its beneficiaries to avail the benefit of their treatment at various places all over Delhi with whom it has entered into an

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agreement under a package deal. Sir Gaga Ram Hospital has not agreed to the package deal for orthoepadic treatment. Applicant cannot claim as a matter of right to choose a hospital and then ask for full reimbursement. He has rightly been allowed whatever is admissible under CGHS rates. The applicant has failed to convince why he could not take his wife to a recognized hospital/center. It would be of relevance to mention that, as held by the Hon'ble Supreme Court in the case of State of Punjab & Ors. Vs. Ram Lubhaya Bagga & Ors. (1988) 4 SCC 117, the State can formulate a scheme to indicate as to how much can it reimburse to its employees on medical treatment and lay down a procedure as the State's resources are limited. Thus, such restriction will not be treated to have violated Articles 14 and 16 of the Constitution. Therefore nobody can claim an ^{absolute} ~~ostensible~~ right to full reimbursement, especially when one chooses his own institute for treatment without any regard to the policy on the subject.

9. Under the circumstances, I find no merit in the present OA and the same is accordingly dismissed. No costs.


(S.K. Naik)
Member(A)

/gtv/