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**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

O.A. No.3148 /2003

New Delhi this the 24th day of November, 2004

Hon'ble Mr. S.K. Malhotra, Member (A)

Shri C.R.Bose,
S/o Sh. C.K.Bose,
R/o C-109, Minto Road,
New Delhi
Working as Inspector,
O/O the DDO, CIT-XII,
New Delhi

.....Applicant

(By Advocate: Shri P.K.De)

Versus

1. Union of India
through
The Chief Commissioner of Income Tax,
Central Revenue Building, I.P. Estate,
New Delhi
2. The Chief Medical Officer (R&H),
Central Govt. Health Scheme,
Nirman Bhawan,
New Delhi.

...Respondents.

(By Advocate Shri V.P.Uppal for R-1 and
Mrs.R.O.Butia for R-2)

ORDER

The present OA filed by the applicant is for reimbursement of full amount of medical expenses charged from him by the Escorts Hospital for his treatment .

2. The applicant is the beneficiary of CGHS. He has been suffering from Cardiac disease and was referred to by his employer to Escorts Heart Institute

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and Research Centre (Escorts Hospital) for by-pass surgery. He remained in the Hospital from 22nd July to 29th July, 2002 for the purpose and he paid a total bill of Rs.1,66,800, against which he was given an advance of Rs.1,20,285, leaving a balance of Rs.46,515/- and another Rs.2094/- which was recovered from his salary later. This amount has not been reimbursed to him. The respondent Department vide their letter dated 30.9.2003 (Annexure A-1) have informed him that reimbursement under CGHS is done as per rates fixed by Ministry of Health and F.W and not as actuals, as Govt. does not have unlimited resources. It has also been stated in this letter that this principle has been up-held by the Hon'ble Supreme Court in the judgment in the case of R.L.Bagga Vs. State of Punjab and others. The applicant has, however, stated that Escorts Hospital is one of recognized hospitals in which the applicant can take treatment as CGHS beneficiary and is entitled to free treatment under the Central Services (Medical Attendant) Rules. He is, therefore, entitled to full reimbursement. In support of his contention, he has cited the single bench judgment of Hon'ble Delhi High Court in **Civil Writ No.4305/2001 titled V.K.Gupta Vs. UOI and Anr. decided on 5.4.2002** in which it was held that the petitioner was entitled to be reimbursed the actual expenses.

3. The respondents in their written reply have taken the stand that the applicant is entitled to the reimbursement of medical expenses on the basis of applicable package rate only and not on the basis of actual expenditure. In the permission granted to the applicant (Annexure A-4), it was categorically made clear that the reimbursement shall be limited to the rates approved by Govt. from

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time to time. Expenditure in excess of the package rate deal would have to be borne by the beneficiary himself. The Director CGHS vide notification dated 25.10.2001 had allowed the CGHS beneficiaries to take treatment in various hospitals, including Escorts but the reimbursement was restricted to the package rates approved by the Ministry of Health and F.W. vide O.M. dated 18.9.1996.

4. I have heard the learned counsel for both the parties and have also gone through the pleadings.

5. The learned counsel for the applicant emphasized that since the applicant had taken treatment from a Govt. recognized hospital where he was referred to by the competent authority, he is entitled to full reimbursement. In support of his contention, he cited the following judgments:

1. Hon'ble Delhi High Court in the case of V.K.Gupta Vs. UOI and Anr.97(2202) Delhi Law Times 337.
2. Milap Singh Vs UOI & Anr. 2004 V AD (Delhi) 529
3. Prithvi Nath Chopra Vs UOI and Anr. 2004 (3) SCT 69

6. In all the above judgements, it has been held that the petitioners are entitled to full reimbursement. In the case of Milap Singh (supra), it has also been held that if the rates charged by the hospital are higher than the package rates, it is for the Govt. to settle the matter with the hospital.

7. The Learned Counsel for the respondents, however, stated that according to the instructions issued by the Ministry of Health & Family Welfare although the treatment from various private hospitals was allowed by the Govt. but the reimbursement of expenses was restricted to the package deal approved by the Ministry. This was made clear to the applicant while allowing him treatment in Escorts Hospital vide order dated 13.6.2001 (page 20 of the paper book). He was

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also informed that any expenditure in excess of the rates/package deal would be borne by him. He stated that under the rules prevalent at the relevant time, the applicant was entitled to only package rates, approved by the Govt. in 1996. Govt. have limited resources with them. They, therefore, restricted the medical claim to a certain limits, under a package for such specialized treatment in private hospitals in respect of Govt. employees. In this connection, he cited the judgment of the Hon'ble Supreme Court delivered by three Hon'ble Judges on 26.2.1998 in the case of State of Punjab and Others Vs. Ram Lubhaya Bagga etc. etc. 1998 (2)

SLR 220, in which it has been held that no State of any Country can have unlimited resources to spend on any project, including for providing medical facilities to its citizens and its employees. The principle of fixation of rate and scale under the policy is justified and cannot be held to be the violative of Article 21 or Article 47 of the Constitution of India.

8. The question to be decided in the instant case is whether Govt. can restrict the claim of reimbursement of medical expenses to the package deal or they are obliged to make full reimbursement, if the treatment has been taken from a hospital recognized by the Govt. There is no doubt that Govt.'s instructions on the subject are very clear that the claim is restricted to the package deal. In the O.M. dated 7.9.2001 (Annexure R-1), the package deal has been defined as lumpsum cost of inpatient treatment or diagnostic procedure for which a patient has been referred by the Competent Authority or CGHS to Hospital or Diagnostic center. This includes all charges pertaining to a particular treatment/procedure including admission charges, accommodation charges, ICU/CCU charges, monitoring

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charges, operation charges, operation theatre charges, procedural charges, surgeon fees, cost of medicines used during hospitalization etc etc. However the package deal does not include diet, telephone charges, TV charges and cost of cosmetics, toiletry, tonics and medicines advertised in mass media. Cost of these, if offered, will be realized from the individual patient and are not to be included in the package charges. It is well known that in all private hospitals like Escorts, Apollo etc which are recognized by the govt. for treatment by Govt. employees, apart from the facilities for operation and treatment of patients, there are far better amenities like TV, toiletries, diet, which are made available to the patients, compared to those in Govt. hospitals. These hospitals have to necessarily charge for these amenities and facilities also. The bills presented to the patients by these hospitals include the cost of all these frills also. It will not be exaggeration to say that some of these hospitals offer almost five star facilities which are welcome but these have to be paid for and cannot be offered free. These amenities cannot be excluded from the treatment given to Govt. employees. Normally the cost of all these facilities is included in the bill to be charged from Govt. employee, as in case of other patients. Since the Govt. does not have unlimited funds and cannot afford to pay for such facilities to its employees, they have no other option but to restrict the expenditure to be reimbursed to the barest minimum for the treatment of its employees. This is what has been enumerated in the O.M. dated 7.9.2001, referred to above. Any charges, over and above the package deal, will have to be borne by the employee himself. It will not be correct that a welfare State like ours, should be paying for five star medical facilities to its employees, while for the general

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public they should not be left with adequate funds to provide even the barest minimum facilities. It is the responsibility of the Govt. to provide certain medical facilities to the general public also. The funds being limited, it becomes necessary for Govt. to restrict its expenditure on its employees, to some extent. This is what has been done by them. This principle of restricting the claim of the Govt. employees on medical expenses to certain limits has been accepted by the Hon'ble Supreme Court in the case of **Ram Lubhaya Bagga (supra)** and this principle still holds good. The Learned Counsel for the applicant argued that since this judgement pertains to the State of Punjab, the same will not be applicable to Central Govt. employees. This argument cannot be accepted. The Hon'ble Supreme Court has laid down a principle which would be equally applicable to all the States and also the Central Government.

9. It is observed that in all the judgments cited by the Learned Counsel for the applicants, while the relief has been granted to the petitioners in the peculiar facts and circumstances of the cases but the principle laid down by the Hon'ble Supreme Court in the case of **Ram Lubhaya Baggar (supra)** still holds good. Govt. was well within its right to restrict the claim to the package deal approved by them at the relevant time. The reimbursement will have to be in accordance with the instructions prevalent at the relevant time I, therefore, do not find any fault with the decision taken by the respondents in this case, allowing reimbursement to the applicant limiting the amount to the package deal, about which he was duly informed in advance.

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10. In view of the above discussions, I do not find any merit in the OA which deserves to be dismissed. It is accordingly dismissed, without any order as to costs.


(S.K. Malhotra)
Member (A)

New Delhi
24. 11. 2004
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