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Central Administrative Tribunal
Principal Bench, New Delhi.

RA-268/2004
MA-2021/2004
OA-614/2003

New Delhi this the ^{16th} day of February, 2005.

Hon'ble Shri Shanker Raju, Member(J)

1. Union of India through the
Secretary, Railway Board,
Rail Bhawan, Rafi Ahmed
Kidwai Marg, New Delhi-1.

2. The General Manager,
Northern Railway,
Baroda House,
New Delhi.

3. The Divl. Railway Manager,
Northern Railway,
Paharganj,
New Delhi.

.... Review applicants

(through Sh. Rajender Khatter, Advocate)

Versus

Shri Bhagwan Singh,
S/o late Sh. Jhanda Singh,
R/o V-259, Rajouri Garden,
New Delhi-27.

.... Respondent

(through Sh. S.L. Lakhpal, Advocate)

O R D E R

This RA has been filed by the respondents in OA and is directed against an order passed on 12.4.2004 in OA-614/2003 where the following directions have been issued:-

“3. Without going into rival contentions, objections and decisions of the Apex Court on a cursor, view of the scheme I find that no provision for follow up treatment has been provided in so far reimbursement is concerned. In the light of settled position of law and the decision of the Railway Board dated 23.11.2000 an equivalence is to be made as per AIIMS rates, I direct respondents to reconsider the claim of applicant for medical reimbursement incurred in follow up action at the AIIMS

rate within a period of three months from the date of receipt of a copy of this order. No costs."

2. Applicant who is a retired employee has incurred medical expenses on bye pass surgery and follow up treatment in Escorts Hospital of his wife. Though the applicant under RELHS meant for retiree in Railways was accorded the maximum amount of Rs. 1 lakh, the Railway Board vide its decision dated 23.11.2000 where irrespective of the status the medical reimbursement is to be made at par with AIIMS rate. The applicant was to be accorded expenses incurred on treatment and also follow up treatment at AIIMS rates.

3. Learned counsel of the review applicants stated that the case of the wife of the applicant was non-referral and vide Railway Board's letter dated 12.9.1995, the Scheme was one time applicable for diseases of heart and maximum Rs. 1 lakh is permissible. In this backdrop, it is stated that the Tribunal has erred by modifying the scope of the Scheme and referred to the decision of the Apex Court in the case of K.P. Singh Vs. U.O.I. (2002 SC(L&S)761) wherein it stated that the order requires review.

4. On the other hand answering respondent filed reply and stated that the review is not maintainable as it is an attempt on the part of the respondents to re-agitate the matter. It is also stated that the wife of the applicant died on 20.6.1998 for want of facilities for specialized post operation treatment and accordingly EHIRC which is a recognized private hospital, the follow up treatment was taken.

5. On careful consideration of the rival contentions of the parties, review under Section 22(3)(f) of the Administrative Tribunals Act, 1985 can be made only when there is an error apparent on the face of record or discovery of a new material which despite due diligence was not available with the parties. The scope of review is not to re-agitate the matter or even if an erroneous view has been taken, the remedy lies elsewhere.

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6. Recently High Court of Delhi in CPC-5015/2003 in J.K. Saxena Vs. NCT of Delhi by an order dated 16.12.2004 has allowed the full reimbursement to a retiree.

7. In this backdrop the decision of the Apex Court in Union of India v. Tarit Ranjan Das, 2004 SCC (L&S) 160 observed as under:

“13. The Tribunal passed the impugned order by reviewing the earlier order. A bare reading of the two orders shows that the order in review application was in complete variation and disregard of the earlier order and the strong as well as sound reasons contained therein whereby the original application was rejected. The scope for review is rather limited and it is not permissible for the forum hearing the review application to act as an appellate authority in respect of the original order by a fresh order and rehearing of the matter to facilitate a change of opinion on merits. The Tribunal seems to have transgressed its jurisdiction in dealing with the review petition as if it was hearing an original application. This aspect has also not been noticed by the High Court.”

8. In my considered view the directions of the Tribunal were in the light of Railway Board decision dated 23.11.2000 where reimbursement is to be made as per AIIMS rate. Moreover, it is an apathy if a retired servant is not accorded follow up treatment and is not paid at the AIIMS rates which is now the *principle* for accord for medical reimbursement.

9. Finding no error in the order, present RA is rejected. No costs.

S. Raju
(Shanker Raju)
Member(J)
16/2/05

/vv/