

CENTRAL ADMINISTRATIVE TRIBUNAL,

CHANDIGARH BENCH

O.A.NO.060/00587/2017

Orders pronounced on: 29.10.2019
(Orders reserved on: 16.10.2019)CORAM: **HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J)**

Avtar Singh Jassal

Son of Late Shri Bhajan Singh Jassal,

Aged 75 years,

r/o 649-I,

Bhai Randhir Singh Nagar,

Ludhiana(Group-A).

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Versus

Applicant

1. Union of India through the
General Manager,
Northern Railway,
Baroda House, New Delhi.
2. The Chief Medical Director,
Northern Railway,
Baroda House, New Delhi.
3. The Chief Medical Superintendent,
Rail Coach Factory,
Kapurthala.
4. The Chief Medical Superintendent,
Northern Railway,
Ferozepur.

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Respondents

**PRESENT: NONE FOR THE APPLICANT.
MR. L.B.SINGH, ADVOCATE, FOR THE RESPONDENTS.**

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

1. The applicant has filed this Original Application under section 19 of the Administrative Tribunals Act, 1985, seeking issuance of direction to the respondents to reimburse him balance amount of Rs.1,89,833/-, spent by him on medical treatment on his wife along with interest @18% per annum from the date the amount became to the actual date of payment.
2. The facts of the case, which led to filing of the O.A., and as projected by the applicant, are that he has retired as Chief Electrical Service Engineer from Rail Coach Factory, Kapurthala on w.e.f. 31.7.2002 and settled at Ludhiana. His wife, underwent both knee replacement and when medical reimbursement was not made, applicant filed O.A. No. 260-PB-2010 which was allowed on 10.1.2011, by grant of reimbursement on package rate basis. Again she developed some problem and was taken to Lala Lajpat Rai Hospital (LLRH), RCF, Kapurthala, which referred applicant to AIIMS, new Delhi on 5.11.2012, where a sum of Rs.5,92,685/- was incurred by the applicant. Out of this amount, the family was released only a sum of Rs.69,397/-. The applicant submitted representations from time to time including legal notice dated 24.2.2014 and 24.3.2014 and ultimately an amount of Rs.2,39,222/- was paid to the applicant on 16.6.2014. Thus, in all, the family was paid a sum of Rs.3,08,619/-, leaving a balance of Rs.2,84,066/-. O.A. No. 060/00556/2014 filed by applicant was disposed of on 7.7.2014 with direction to the respondents to take a view on the claim of the applicant. Then they passed order dated 29.8.2014 rejecting the claim of applicant on the ground that reference was made only for right knee of wife of the applicant. Ultimately, another round of

litigation followed and vide order dated 18.11.2016, a sum of Rs.94,233/- was sanctioned by competent authority. Thus, still the family has been denied a sum of Rs.1,89,833/- hence the O.A.

3. This O.A. along with a bunch of other matters was heard and disposed of vide order dated 7.5.2018 on the ground that retirees are also entitled to reimbursement of medical claim, as denial was made in other cases on the ground that retirees are not covered by CS(MA) Rules, 1944. The respondents then filed R.A. No. 60/2/2019 in this O.A. for review of order dated 7.5.2018, on the ground that claim of applicant was different than the ones considered and decided in other cases and as such order may be reviewed. The R.A. was allowed on 19.8.2019 and thus O.A. was restored back for hearing on its own merits.

4. Respondent No.3 has filed a short written statement. It is submitted that retired Railway employees availing benefits under the Railway Employees Liberalized Health Scheme (RELHS) are permitted to register under only one Health Unit at a time and registration at two places is not permissible. The applicant, got himself registered at LLRH Kapurthala, as well as Sub Divisional Hospital (SDH), Northern Railway, Ludhiana. Thus, his registration for LLRH, Kapurthala, was deleted. Respondents No.1&2 have filed a detailed written statement. They submit that the earlier reimbursement was made at CGHS rates, as per direction of this Tribunal in order dated 10.1.2011 in O.A. No. 260-PB-2010. She reported for treatment to CMS, Kapurthala, who noticed that she had been operated for her right knee about 4 years back in private hospital. She was referred to AIIMS, New Delhi, for treatment of loose implant, swelling of right knee, inability to walk together and swelling with painful right knee. A fresh implant was done on 5.12.2012

and applicant was reimbursed a sum of Rs.3,08,614/- . Without any discharge slip or other advice from AIIMS, she reported there for left knee replacement after 6 weeks and on 2.2.2013, left knee was also replaced by AIIMS, New Delhi. Since she was not suffering from any life-threatening disease etc., so she ought to have approached the Authorized Railway Medical Officer at Ludhiana, for reference, and if necessary she could have been referred to the Central Railway Hospital, New Delhi, for total left knee replacement, where such procedure is available. In any case, in terms of directions of this Tribunal, the reimbursement for replacement of left knee joint at AIIMS rate and cost of implant and bone cement amounting to Rs.94,233/- was sanctioned at CGHS rates, as per parameters laid down in policy, Annexure R-1. As per guidelines, Annexure R-1, treatment taken in a recognized private hospital but for an ailment for which it is not recognized or treatment taken in a non-recognized private hospital – reimbursement should be made at the CGHS rates of that city in nearest city. Thus, they submit that applicant is not entitled to full reimbursement.

5. Neither applicant nor his counsel appeared despite pass over and exhausting of cause list. Thus, proceeding under rule 15 of the C.A.T (Procedure) Rules, 1987, I have heard the learned counsel for the respondent and examined the pleadings on file with his able assistance.

6. There is no dispute that the wife of the applicant had undertaken treatment at AIIMS, New Delhi, and the applicant has incurred the full amount claimed by him. In short, the genuineness of claim of the applicant is not disputed by the respondents. The only objection taken by them is that since while taking discharge for treatment of one knee, there was no mention by Doctors of AIIMS that she has to come back for treatment of other knee. She reported to AIIMS and took treatment

without any reference from the referral Hospital and as such he is not entitled to full reimbursement.

7. Admittedly the claim of applicant has been examined under policy, annexure R-1, which provides as under :-

"Once the emergency is established beyond doubt, then the case should be further processed for calculating the amount / money to be sanctioned. For that following guidelines are given :-

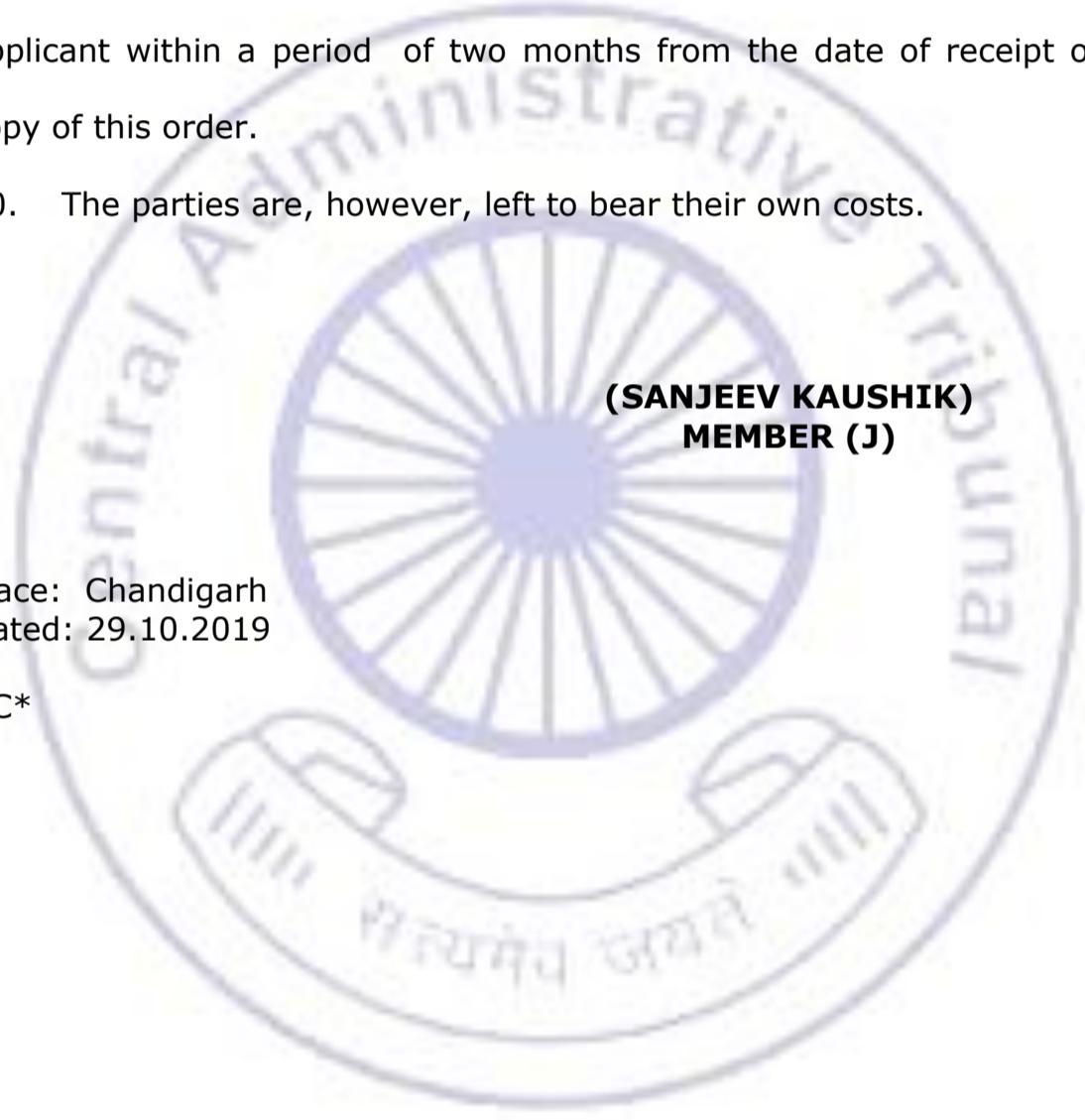
- a) Treatment taken in government Hospital- full admissible amount should be recommended for the sanction.
- b) Treatment taken in recognized private hospital for an ailment for which it is recognized-rate as approved by railway should be processed for sanction.
- c) Treatment taken in a recognized private hospital but for an ailment for which it is not recognized or treatment taken in a non-recognized private hospital – reimbursement should be made at the CGHS rates of that city in nearest city. CGHS (Central government health Scheme) approved rates are to be recommended / processed as an upper limit for sanction".

8. The instructions quoted above make it clear that once emergency of a treatment is established beyond doubt, then the procedure is provided for reimbursement of medical claim. Clause (a) provides that if treatment is taken in government hospital, then full admissible amount should be recommended. Clause (c) states that if treatment is taken in a recognized or un-recognized private hospital, then CGHS rates are to be made applicable. The first stage in this case is of proof that indeed there was emergency. So, the applicant did cross this stage and as such respondents considered the case under clause (c). But it is surprising that when treatment has been taken in a government hospital, for which full reimbursement is admissible, as mentioned in clause (a), they have chosen to treat such hospital (AIIMS) at par with non-recognized private hospital, which cannot be approved of. It cannot be disputed, at all, that the AIIMS is a Government Hospital and as such it is difficult to find any justification in action of respondents in treating it as a non-recognized private hospital. Apparently, the case of

applicant falls in clause (a) which provides that a person would be entitled to full admissible amount and the CGHS rates would be applicable only kind of hospitals which are mentioned in clause (c). In that view of the matter, it is held that the applicant is entitled to full reimbursement of the amount claimed by him.

9. In the wake of aforesaid discussion, this O.A. is allowed. The respondents are directed to reimburse the full amount as claimed by the applicant within a period of two months from the date of receipt of a copy of this order.

10. The parties are, however, left to bear their own costs.

A circular seal of the Central Administrative Tribunal. The outer ring contains the text "Central Administrative Tribunal" in English and "संघ आन्दोलन न्यायालय" in Hindi. The inner circle features a purple Ashoka Chakra with 24 spokes. The name of the member, "SANJEEV KAUSHIK", and their designation, "MEMBER (J)", are written in bold capital letters above the chakra.

(SANJEEV KAUSHIK)
MEMBER (J)

Place: Chandigarh
Dated: 29.10.2019

HC*