

## CENTRAL ADMINISTRATIVE TRIBUNAL

## MADRAS BENCH

DATED THIS THE 13<sup>th</sup> DAY OF MARCH, TWO THOUSAND NINETEEN

PRESENT:

THE HON'BLE MR. T. JACOB, MEMBER (A)

**OA/310/00737/2018**

R. Purushothamman  
Retd. Chief Supervisor (E&R)  
Madurai Division  
Southern Railway,  
Madurai.

...Applicant

-versus-

1. Union of India represented by  
The General Manager  
Southern Railway  
Park Town,  
Chennai – 3.

2. The Chief Medical Director  
Southern Railway  
Park Town,  
Chennai – 3.

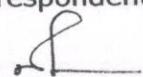
3. The Chief Medical Superintendent  
Madurai Division  
Southern Railway,  
Madurai – 16.

...Respondents

By Advocates:

M/s. Ratio Legis for the applicant.

Mr. K. Vijayaraghavan, for the respondents.



**ORDER**

(Pronounced by Hon'ble Mr. T. Jacob, Member (A))

This OA has been filed by the applicant under Sec.19 of the Administrative Tribunals Act, 1985 seeking the following reliefs:-

"To call for the records related to impugned order in no. U/MD/34/1 dated 26.09.2017 passed by the 3<sup>rd</sup> respondent and to quash the same and further to direct the respondents to do the necessary to direct the respondents to reimburse the claim of Rs. 2,42,736/- with admissible interest and to pass such other order/orders"

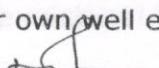
2. The brief facts of the case, as stated by the applicant, are as follows:-

The applicant retired from Railways on 28.02.2011 as Chief Supervisor (Enquiry and Reservation) in Madurai Division. While working as such, he was diagnosed as a heart patient by the Railway Doctors. According to him, he fell unconscious due to severe chest pain and on semi conscious stage, he realised that he was admitted in the Apollo Hospital in an emergent situation by the family members on 10.11.2016. It was made known to the applicant that he was diagnosed as a case of Coronary Artery Disease and CBAG was done on 11.11.2016 followed by a bye-pass grafting surgery on 18.11.2016. He was discharged on 26.11.2016 with instructions to continue the medicines. After recuperation from the sudden attack and treatment, entire medical expenses to the tune of Rs. 2,42,736/- were claimed with necessary bills on 05.09.2017 and in spite of the fact it was an emergent situation to save his life, his claim dated 05.09.2017 was rejected by the third respondent vide impugned order No.U/MD/34/1 dated 26.09.2017 without any valid reasons contrary to the statutory instructions contained in the Indian Railway Medical Manual issued by the Railway Board. Hence this OA.



3. The learned counsel for the applicant would submit that sub para 3 under para 648 of the Indian Railway Medical Manual 2000 authorises reimbursement of medical expenses during emergency condition, rejecting his claim for medical reimbursement of Rs. 2,42,736/- when he was badly affected by heart trouble is against the provisions of IRMM and hence unsustainable in law. Further the impugned order rejecting his claim for medical reimbursement by a non-speaking order of the 3<sup>rd</sup> respondent is against the stipulated provisions. It is also submitted that under similar circumstances many railway employees were paid with reimbursement for having availed treatment in private hospitals during emergent circumstances and denial of such benefit to the applicant is bad in law.

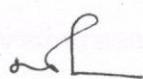
4. The respondents have filed reply. It is submitted that the applicant herein had consulted a private cardiologist of Apollo Hospital in his clinic on 05.11.2016 and he got admitted in the Apollo Hospital on 10.11.2016 and Angiogram was done on 11.11.2016. Thereafter the applicant again got admitted in the Apollo Hospital on 16.11.2016 and Bypass surgery was done on 18.11.2016. It is submitted that the applicant's averment that he was admitted in the Apollo Hospital on an emergent situation is totally unacceptable. The applicant during those two months had never approached the Railway Hospital instead he had approached a doctor in a private clinic and went to Apollo Hospital, Madurai and did a planned Angiography on 11.11.2016 and planned Bypass surgery on 18.11.2016. It is submitted by the respondents that the Railway Hospital at Madurai makes assessment of cases like these and arranges surgery when needed at their own well equipped and



reputed hospital at Perambur. Further IRMM para 648 sub para 2 stipulates that treatment can be availed in a private hospital only during an emergency. It is further submitted that the parameters mentioned by the Railway Board vide letter No.2005/H/6-4/Policy-II dated 31.01.2007 have not been fulfilled by the applicant while submitting the medical claim. Hence the applicant cannot take refuge of the above said order for justifying his claim for reimbursement of medical expenses.

5. Learned counsel for the applicant would submit that the applicant's case for medical reimbursement has been rejected on the ground that he has not taken treatment in the Railway Hospital but had chosen to get himself admitted in a private hospital. He also argued that questioning the act of the applicant in seeking private treatment on the ground that he became unconscious cannot have any say on the situation and is impermissible in law.

6. The learned counsel for the respondents would argue that the applicant's state was such that he could not seek admission in the Railway Hospital. The applicant's claim that he was admitted to a private hospital in an emergency is not correct and the respondents had rightly rejected his medical reimbursement claim. It is also submitted that the Railway Hospital is renowned for treatment of cardiac conditions and there was no reason for the applicant to approach a private hospital. It is also submitted that the applicant has approached this Tribunal prematurely without exhausting the departmental remedy available to him under law. He could have preferred any appeal against the rejection of his claim dated 26.9.2017.



7. I have considered the submissions of the learned counsel for either side and also perused the pleadings. As to emergency cases, para 648 of the Indian Railway Medical Manual explains the emergency cases and the same is as under:-

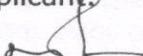
"648. Treatment in an emergency: 1) Where, in an emergency, a Railway employee or his dependent has to go for treatment (including confinement) to a Government hospital or a recognised hospital or a dispensary run by a philanthropic organisation, without prior consultation with the Authorised Medical Officer, reimbursement of the expenses incurred to the extent otherwise admissible, will be permitted as detailed below. In such a case, before reimbursement is admitted, it will be necessary to obtain, in addition to other documents prescribed, a certificate in the prescribed form as given in para C of certificate B of Annexure III to this Chapter from the Medical Superintendent of the hospital to the effect that the facilities provided were the minimum which were essential for the patient's treatment. In such cases, the General Managers are delegated with full powers for reimbursement of medical expenses..."

8. Again vide Railway Board letter No.2005/H/6-4/Policy-I dated September, 2015 the emergency would be established by MD/CMS/MS in-charge and there is no bar for higher authorities to consider the appeal submitted before them. In case of administrative instructions, any authority above the nominated authority, can consider a request for re-looking the issue provided that there are sufficient grounds available for reconsideration. While considering appeals/requests for review in such cases, higher authorities can over rule the decision of MD/CMS/MS in-charge by way of an order giving the reasons for different view, which should be recorded in writing. Here in this case, as stated by the respondents, the applicant has approached this Tribunal prematurely without exhausting the departmental remedy available to him under law by way of an appeal to the higher authorities.

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9. In the instant case, the spinal contention of the Railways is that the applicant did not consult Railway Hospital before taking treatment in a private hospital. In other words, he had directly approached private doctor/institution. Even as per rules, there is no compulsion that one has to first visit the Government hospital even in emergency cases. The rigmarole to be followed in the Railway hospital for any reason whatsoever is certainly one of elongated procedure and obviously emergent cases may not be in a position to spare that much time without being treated on emergent basis. It is for this reason that there has been no compulsion to first visit Railway hospital. Thus the contention of non visit to Railway hospital has to be rejected as meritless. Again in so far as treatment is concerned, the ailment is one relating to heart and no one would afford to lose time. The applicant rightly consulted the private doctor presumably nearby his residence and on his advice had to be got admitted in the Apollo Hospital, a recognised referral medical hospital. The treatment given to him in quick succession of admission followed by Angiogram, Bye pass surgery within a span of a week from 11.10.2016 to 18.10.2016 fulfils the conditions stipulated in Rule 648 of IRMM.

10. In view of the above, the applicant is directed to submit an appeal against Annexure A2 communication of the respondents dated 26.9.2017 to the competent authority within two weeks from the date of receipt of a copy of this order. On receipt of such appeal, the competent authority shall consider the same and pass a reasoned and speaking order within a period of three months thereafter and communicate the decision to the applicant.



11. The OA is disposed of accordingly. However, it is made clear that the applicant is at liberty to approach this Tribunal if he is so aggrieved by any order passed by the respondents, if so advised. No costs.