

(2019) 01 CAT CK 0132

In the Central Administrative Tribunal

Case No : Original Application No. 278 Of 2014

Ajit Singh Drall

APPELLANT

Vs

Union Of India And Ors

RESPONDENT

Date of Decision : 08-01-2019

Acts Referred:

Citation : (2019) 01 CAT CK 0132

Hon'ble Judges : Praveen Mahajan, Member (A)

Bench : Single Bench

Advocate : Amrit Kaur Oberoi, M.S. Reen

Final Decision : Allowed

Judgement

1. The applicant in the current O.A. retired as Section Officer from Ministry of Labour on 30.06.2002. He is a life member of CGHS and is in possession of Card No. 55324.

2. It is stated that on 23.03.2011, he developed a severe pain in abdomen and was referred for surgical special advice by the CGHS to Dr. Ram Manohar Lohia Hospital. The doctors at Ram Manohar Lohia Hospital, after undertaking various tests etc., diagnosed that the applicant had a Giant Cell Tumour of the Soft Tissue in the bladder region on the left side and referred to CGHS recognized concerned hospital for further management of the patient on 28.03.2011.

2.1 The applicant then approached the respondents for their approval for undertaking medical treatment in Indraprastha Apollo Hospital, which is one of the approved hospitals on the list of CGHS. The permission was granted to him on 30.03.2011. The applicant was admitted in the Apollo Hospital on 04.04.2011 and was diagnosed with Extraluminal urinary bladder mass leiomyosarcoma with left mild hydroureteronephrosis and was admitted for further evaluation and management. The applicant underwent a procedure called cystoscopy with OIU + left DJ stenting with exploratory laparotomy with excision of tumour on 05.04.2011. The applicant remained admitted in the hospital and was finally

discharged on 09.04.2011. The applicant incurred an expenditure of Rs.1,26,539.30 on his medical treatment, which was paid by borrowing money from his relatives.

2.2 The applicant approached the respondents for reimbursement of the medical bills on 24.05.2011 along with complete set of documents showing the details of treatment undertaken by him.

3. After few months, the applicant learnt that the respondents have reimbursed him only a sum of Rs. 26,993/- against the medical bill of Rs. 1,26,539.30, which was deposited in his bank account on 22.11.2011.

4. The applicant approached the respondents vide his letter dated 04.01.2012 urging them to reimburse his complete medical expenditure in view of the judgment of Hon'ble High Court of Delhi in the case of Milap Singh Vs. Union of India, 113 (2004) DLT 91. This was followed by reminders dated 20.04.2012, 25.05.2012 and 03.06.2013.

5. The applicant has also relied on the following decisions in support of his claim for full medical reimbursement:-

(i) Govt. of NCT Vs. S.S. Sharma, 2005(118)DLT 144(DB).

(ii) Mohinder Pal Vs. UOI, 117(2005) DLT 204.

(iii) Milap Singh Vs. UOI, 113(2004)DLT 91.

(iv) S.S. Sharma Vs. UOI, 2002(64)DRJ 620.

(v) B.R. Mehta Vs. UOI, 79(1999)DLT 388.

6. The respondents in their counter affidavit, without disputing the facts of the case state that an amount of Rs.26,993/- was reimbursed to the applicant in September, 2011. On receiving a representation from the applicant regarding reimbursement of the balance amount of Rs.99,546/- the bill was re-calculated and an amount of Rs. 44000/- was also reimbursed to him in October, 2013. Hence, a total amount of Rs.70,993/- out of the claimed amount of Rs.1,26,539/- has already been reimbursed to the applicant at CGHS rates.

6.1 The respondents state that the reimbursement has been done based on the instructions mentioned in CGHS regarding prescribed rates of medical reimbursement. It is further submitted that as per CGHS card of the applicant, he is entitled for medical facility in 'semi private ward' only. The applicant has claimed an amount of Rs.14500/- as bed charges whereas his entitlement was only Rs. 10,000/- and the admissible amount has already been reimbursed to him. The respondents further go on to reiterate other areas where the amount claimed by the applicant is more than what he is entitled to, like consultation fees in respect of bio chemistry test, pharmacy and other procedures etc, where the amount claimed exceeds his entitled category/amount.

7. In the amended OA filed by the applicant, a prayer has been made for

directing the respondents to make payment of the balance amount of Rs. 55,546/- along with interest till actual realization of the full medical claim.

8. During the course of hearing, the learned counsel for the applicant Ms. Amrit Kaur Oberoi argued that the respondents have arbitrarily reduced the medical claim of the applicant on the ground that he is not entitled for full reimbursement as per CGHS rates. She drew my attention to the decision of the Hon'ble High Court of Delhi in the case of Milap Singh Vs. UOI & Anr., 113(2004)DLT 91 wherein it has been held that the petitioner was entitled for full medical reimbursement and not at the rates specified under OM dated 18.09.1996 (specifying CGHS rates). The learned counsel relied upon other citations wherein it has been held that medical expenditure of the applicants must be reimbursed in full and in case of any dispute about the quantified of the amount charged, it is for the respondents to take up the matter directly with the hospital concerned.

9. The learned counsel for the respondents Sh. M.S. Reen, on the other hand, vehemently argued that the respondents are bound by the rates approved by the CGHS and that the expenditure to be reimbursed by the respondents has to be restricted to the package bill rates approved by Government from time to time. Sh. Reen emphasized that the expenditure in excess of the approved package bill is to be borne by the beneficiary himself. In support of this contention, he relied upon the judgment of Hon'ble Supreme Court in the case of K.P. Singh Vs. UOI & Ors., (2001)10 SCC 167. Sh. Reen pointed out the discrepancies mentioned in the counter-affidavit regarding the applicant claiming the benefits to which he was not entitled (for example, the charges claimed at the private ward rate whereas the entitlement was restricted to semi private ward only).

10. I have gone through the facts of the case carefully. The applicant has been refused reimbursement of the full medical expenses by the respondents on the ground that the same are in excess of the rates specified in the Circular of 1996 governing the CGHS.

11. It is not disputed that the circumstances in which the applicant had to undergo treatment in Indraprastha Apollo Hospital on the basis of which he had to incur the expenditure, were of an emergent nature. The applicant followed the proper procedure in getting himself treated from a hospital which is a CGHS empanelled hospital and was duly referred there by R.M.L. Hospital.

11.1 The respondents herein contend that reimbursement of medical expenses would be as per CGHS rates, which contain approved rates fixed by the Ministry of Health and Family Welfare and not on the basis of actual expenditure incurred.

12. The issue raised by the applicant in the O.A. has been dealt with repeatedly and extensively in various judgments relied upon by the applicant. In the case of Milap Singh (supra), Hon'ble High Court of Delhi in para-14, has quoted para-26 of the judgment of Hon'ble High Court of Delhi in the case of Prithvi Nath Chopra Vs. UOI & Anr., 2004 III AD(DELHI)569, which reads as under:-

"26. It can also not be disputed that the Indraprastha Apollo Hospital has been made available land at token amount and it was for the respondents to have settled the amounts of reimbursement at the hospital. If the respondents have any grievance about the quantification of the amounts charged, it is for the respondents to take up the matter in issue with the Apollo Hospital. But that cannot deprive the petitioner of full reimbursement of the amount as charged by the recognised Indraprastha Apollo Hospital. In fact, the petitioner has been compelled to pay the charges first and thereafter reimbursement is taking place while the present policy is stated to be one where the respondents are directly billed by the approved hospitals which policy is salutary since the patient may not at a time have the funds available to first pay the amount and then claim the reimbursement."

12.1 In the case of Sh. Balram Sharma Vs. Union of India & Anr. [WP(C)-13740/2005, Hon?ble High Cort of Delhi on 04.07.2008 while taking cognizance of the judgment of the Hon?ble Supreme Court delivered in the case of State of Punjab and Ors. Vs. Ram Lubhaya Bagga and Others, (1998) 4 SCC 117 has held that:-

"11. It is not in dispute that keeping in view the limited financial resources, it is legitimate for the Government to fix the limits of reimbursement. But at the same time it is to be borne in mind that when the Government takes a particular hospital on its panel and approves the same for the purposes of treatment of its employees, it is the duty of the Government to ensure that such hospitals do not charge over and above what Government wants to pay. Reason is simple. In so far as the employee is concerned, he is entitled to full reimbursement of expenditure incurred by him on his treatment in a CGHS recognized private hospital. Health insurance for its employees is the guarantee of the Government and the Government has to adhere to the same. It is for this reason that the Government should ensure that private hospitals on their panel charge the same amount which the Government reimburses. "

Further, in para-14 of the same judgment, their Lordships came to a categorical finding that the Government must reimburse the medical expenditure in full when the following conditions are met:-

"14. We are, therefore, of the view that in balancing the interest of the Government, on the one hand, which is limited to financial resources and its paying capacity and on the other hand, it has duty towards its employees to reimburse the medical expenses, a balance can be struck by directing the respondent/Government to reimburse medical expenditure in full when the following conditions are met:-

a) The private hospital where the treatment is taken by a Government employee is on the approved list of the Government.

b) The illness for which the treatment is required is of emergent nature which needs immediate attention and either the Government hospitals have no facilities

for such treatment or it is not possible to get treatment at Government hospital and it may take unduly long for the patient to get treatment at Government hospital.

c) The concerned employee/patient takes permission to get treatment from the Government hospital, which is granted and/or referred by the Government hospital to such a private hospital for treatment."

Also in the case of Gurcharan Singh Vs. UOI & Ors. [WP(C)-56/2008 decided on 19.01.2010, Hon'ble High Court of Delhi has observed that the Government is defying the directions of the Hon'ble Supreme Court given in the case of K.P. Singh Vs. UOI & Ors., (2001)10 SCC 167 wherein Government was directed to update its approved rates on an annual or on biennial basis. In para-10 of the said judgment, their Lordships have observed as under:-

"10....There are any number of judgments both of this Court and also of the Hon'ble Supreme Court where a duty has been cast upon the Government to update its approved rates from time to time. Once a CGHS beneficiary is recommended for treatment in an approved hospital on the list of the Government, then he cannot be denied the reimbursement of expenses actually incurred by him unless the beneficiary opt of his own to go for a luxury treatment and incur expenses beyond the approved rates of the Government for a normal treatment. It is not the case of the respondents that the petitioner in the present case had taken any such luxury treatment for his wife for which claim was made by him. In the opinion of this Court, the respondents acted arbitrary and without any justification in denying the medical claim made by the petitioner in regard to actual payment made by him to the Hospital for the treatment of his wife. Reference can be made to some of the judgments of this Court in Jai Prakash Vs. Union of India 2007 (6) AD Delhi 518; Ram Niwas Jain Vs. Central Government Health Scheme 2007 (139) DLT 237 and B.R. Goel Vs. Union of India 2007 (1) AD Delhi 341."

13. In view of the foregoing discussions and having regard to the facts and circumstances of the present case, I am convinced that the relief claimed by the applicant in O.A. is reasonable and also supported by various judgments of different judicial fora. Respondents are directed to make balance payment towards medical claim made by the applicant after adjusting the payment already made to him. This exercise must be completed within three months from the date of receipt of a copy of this order. I am, however, not inclined to accept the request regarding payment of interest made by the applicant. O.A. is allowed with these directions. No costs.