(2023) 07 CAT CK 0020

In the Central Administrative Tribunal

Case No : Original Application No. 1244 Of 2014

Mohd. Rasheed Ahmad — APPELLANT

Vs

Union Of India & Ors — RESPONDENT

Date of Decision : 14-07-2023

Acts Referred:
Administrative Tribunals Act, 1985 — Section 19

Citation : (2023) 07 CAT CK 0020

Hon'ble Judges : Om Prakash VII, Member (J)

Bench : Single Bench

Advocate : R.K Dixit, K.K. Ojha

Final Decision : Allowed

Judgement

Om Prakash-VII, Member (J)

1. The present O.A. has been filed by the applicants under Section 19 of the Administrative Tribunals Act, 1985 for quashing the impugned orders dated 2.12.2013 and 2.7.2014 and for direction to the respondents to make payment of claim of medical reimbursement dated 20.7.2013 i.e. Rs. 86,153/- with interest.

2. The brief facts enumerated from the O.A. are that father of the applicant who was working on the post of Ex-Box/Khalasi S.R. CC/CNB/NCR, Kanpur was seriously ill and became unconscious. Applicant immediately admitted his father in J.K. Cancer Institute on 18.8.2008 to 28.8.2008. Again on 4.9.2008, applicant in a emergency situation admitted his father in the Dharamshila Hospital and Research Centre, New Delhi who recommended for surgery to save the life of applicant’s father. After treatment, father of the applicant was discharged from Dharamshila Hospital ,New Delhi on 10.9.2008. Ultimately father of the applicant died on 27.5.2011. After the death of his father, applicant fell sick. Vide letter dated 20.7.2013, applicant submitted medical claim of medical expenses of Rs. 86,153/- to the Chief Medical Superintendent , N.C. Railway, Loco Hospital,

Kanpur with supporting documents. Vide letter dated 25.10.2013, department sought para wise reply and applicant vide letter dated 19.11.2013, submitted reply to the letter dated 25.10.2013 and explained the emergency but without considering the explanation given by the applicant, respondents rejected the claim of the applicant vide letter dated 2.12.2013. Applicant submitted appeal dated 20.1.2014 which was also rejected vide order dated 2.7.2014.

3. Per contra, learned counsel for the respondents filed counter reply, in which it has been stated that para 648 (2) of Indian Railway Medical Manual Vol I clearly states that it should be ensured that treatment taken in private hospital by Railway men is reimbursed only in emergent as highlighted in Annexure A-5 of petition itself. Since the claim of the applicant is not emergent in nature, hence the claim is not valid and competent authority rejected the same.

4. Heard the learned counsel for the parties.

5. Learned counsel for the applicant argued that applicant's father was cancer patient and he admitted his father in the hospital in emergency. Applicant attached all the required documents along with his medical bill. The claim of the applicant was rejected by the respondents by a non-speaking order. No specific reason has been given for rejecting the claim of the applicant. Learned counsel for the applicant placed reliance of the following case laws:-

i) Khanchand Parmnani Vs. UOI and others (OA.No. 41/2017 Decided by CAT, Ahmedabad Bench on 17.9.2018

ii) Sohanbir Singh Vs. Govt. of NCT of Delhi and others 8/2008 CAT Principal Bench decided on 19.12.2007

iii) Dr. M.A. Haque Vs. Secretary, M/o Environment and Forest Govt. of India, decided on 4.12.2007

iv) Shiva Kant Jha Vs. UOI Writ Petition (Civil) No. 694 of 2015 –Hon'ble Apex Court

6. Learned counsel for respondents argued that the claim should be preferred within six months from the date of discharge from hospital/sickness period, as per letter dated 16.7.2012 annexed along with the counter reply. It is further argued that treatment in private hospital can be taken only in emergent cases, whereas the case of the applicant was not emergent. Hence he is not entitled for any reimbursement.

7. I have considered the rival submissions and have gone through the entire record.

8. From perusal of record, it is evident that medical claim has been filed with delay but as per circular dated 16.7.2012, it is clearly mentioned that "If the claim submitted after six months then delay to be condoned by controlling officer. Therefore, it is clear that controlling authority can condone the delay. Order passed by the respondents are non speaking order. No specific reason for

denial has been given.

9. In the case of Khanchand Parmnani Vs. UOI (supra), CAT, Ahmedabad Bench has observed that "Medical claim ought not to have been denied merely because the name of hospital is not included in the Govt. order."

10. In the case of Dr. M.A. Haque Vs.Secretary, M/o Environment and Forest (supra), CAT, PB directed the respondents to reimburse the applicant the remaining amount in the context of his claim of Rs. 1,59,412/- within one month.

11. In the case of Sohanbir Singh Vs. Govt. of NCT of Delhi (supra) respondents were directed to reimburse the claim of the applicant at AIIMS rate within a period of 2 months.

12. In the case of Shiva Kant Jha vs. UOI (supra), Hon'ble Apex Court observed as under:-

"12) With a view to provide the medical facility to the retired/serving CGHS beneficiaries, the government has empanelled a large number of hospitals on CGHS panel, however, the rates charged for such facility shall be only at the CGHS rates and, hence, the same are paid as per the procedure. Though the respondent-State has pleaded that the CGHS has to deal with large number of such retired beneficiaries and if the petitioner is compensated beyond the policy, it would have large scale ramification as none would follow the procedure to approach the empanelled hospitals and would rather choose private hospital as per their own free will. It cannot be ignored that such private hospitals raise exorbitant bills subjecting the patient to various tests, procedures and treatment which may not be necessary at all times.

13) It is a settled legal position that the Government employee during his life time or after his retirement is entitled to get the benefit of the medical facilities and no fetters can be placed on his rights. It is acceptable to common sense, that ultimate decision as to how a patient should be treated vests only with the Doctor, who is well versed and expert both on academic qualification and experience gained. Very little scope is left to the patient or his relative to decide as to the manner in which the ailment should be treated.

Speciality Hospitals are established for treatment of specified ailments and services of Doctors specialized in a discipline are availed by patients only to ensure proper, required and safe treatment. Can it be said that taking treatment in Speciality Hospital by itself would deprive a person to claim reimbursement solely on the ground that the said Hospital is not included in the Government Order. The right to medical claim cannot be denied merely because the name of the hospital is not included in the Government Order. The real test must be the factum of treatment. Before any medical claim is honoured, the authorities are bound to ensure as to whether the claimant had actually taken treatment and the factum of treatment is supported by records duly certified by Doctors/ Hospitals concerned. Once, it is established, the claim cannot be denied on

technical grounds. Clearly, in the present case, by taking a very inhuman approach, the officials of the CGHS have denied the grant of medical reimbursement in full to the petitioner forcing him to approach this Court.

14) This is hardly a satisfactory state of affairs. The relevant authorities are required to be more responsive and cannot in a mechanical manner deprive an employee of his legitimate reimbursement. The Central Government Health Scheme (CGHS) was propounded with a purpose of providing health facility scheme to the central government employees so that they are not left without medical care after retirement. It was in furtherance of the object of a welfare State, which must provide for such medical care that the scheme was brought in force. In the facts of the present case, it cannot be denied that the writ petitioner was admitted in the above said hospitals in emergency conditions. Moreover, the law does not require that prior permission has to be taken in such situation where the survival of the person is the prime consideration. The doctors did his operation and had implanted CRT-D device and have done so as one essential and timely. Though it is the claim of the respondent-State that the rates were exorbitant whereas the rates charged for such facility shall be only at the CGHS rates and that too after following a proper procedure given in the Circulars issued on time to time by the concerned Ministry, it also cannot be denied that the petitioner was taken to hospital under emergency conditions for survival of his life which requirement was above the sanctions and treatment in empanelled hospitals.

15) In the present view of the matter, we are of the considered opinion that the CGHS is responsible for taking care of healthcare needs and well being of the central government employees and pensioners. In the facts and circumstances of the case, we are of opinion that the treatment of the petitioner in non-empanelled hospital was genuine because there was no option left with him at the relevant time. We, therefore, direct the respondent-State to pay the balance amount of Rs. 4,99,555/- to the writ petitioner. We also make it clear that the said decision is confined to this case only.

16) Further, with regard to the slow and tardy pace of disposal of MRC by the CGHS in case of pensioner beneficiaries and the unnecessary harassment meted out to pensioners who are senior citizens, affecting them mentally, physically and financially, we are of the opinion that all such claims shall be attended by a Secretary level High Powered Committee in the concerned Ministry which shall meet every month for quick disposal of such cases. We, hereby, direct the concerned Ministry to device a Committee for grievance redressal of the retired pensioners consisting of Special Directorate General, Directorate General, 2 (two) Additional Directors and 1 (one) Specialist in the field which shall ensure timely and hassle free disposal of the claims within a period of 7 (seven) days. We further direct the concerned Ministry to take steps to form the Committee as expeditiously as possible. Further, the above exercise would be futile if the delay occasioned at the very initial stage, i.e., after submitting the relevant claim

papers to the CMO-I/C, therefore, we are of the opinion that there shall be a timeframe for finalization and disbursement of the claim amounts of pensioners. In this view, we are of the opinion that after submitting the relevant papers for claim by a pensioner, the same shall be reimbursed within a period of 1 (one) month.

17) In view of the foregoing discussion, we dispose of the petition filed by the writ petitioner with the above terms."

13. Although in the instant matter, some incorrect facts have been mentioned by the applicant in the prescribed form submitted by him and claim was made after expiry of six months but employee concern for whose treatment claim was made by the applicant died during treatment, it might be possible that applicant was not aware about the procedure for submitting medical claim. The competent authority/ controlling authority was enough competent to condone the delay in suitable cases. Thus, specific reason must have been assigned in the impugned orders regarding rejecting the claim of the applicant.

14. No doubt respondents have rejected the claim of the applicant by passing a non-speaking order. Appellate order is also non speaking. Hence, O.A. is allowed. Impugned orders dated 2.7.2014 and 2.12.2013 are liable to be quashed. Accordngly, orders dated 2.7.2014 and 2.12.2013 are quashed. Respondents are directed to reconsider the claim of the applicant for medical reimbursement and pass a speaking order in the light of observations made by the various courts of law referred above.

15. There shall be no order as to costs.

16. All the MAs pending in this O.A. also stand disposed off.

