

(2018) 12 CAT CK 0175
In the Central Administrative Tribunal
Case No : Original Application No. 726 Of 2015

Prem Kumar

APPELLANT

Vs

Union Of India And Ors

RESPONDENT

Date of Decision : 06-12-2018

Acts Referred:

Administrative Tribunals Act, 1985 — Section 19

Citation : (2018) 12 CAT CK 0175

Hon'ble Judges : Nita Chowdhury, Member (A)

Bench : Single Bench

Advocate : H.K. Bajpai, Meenu Mainee, Rajinder Nischal

Final Decision : Dismissed

Judgement

1. Heard learned counsel for the parties and perused the material placed on record.

2. The applicant has filed this OA under Section 19 of the Administrative Tribunals Act, 1985 seeking the following reliefs:-

"8.1 That this Hon'ble Tribunal may be graciously pleased to allow this application and direct to respondents to make payment of medical reimbursement for which the claim has already been submitted by the Applicant.

8.2 That the Hon'ble Tribunal may further graciously be pleased to direct the Respondents to reconsider the case of the Applicant for posting in Delhi in the interest of health of the Applicant, relaxing the Rules, if necessary.

8.3 That any other or further order may kindly be passed as may be deemed fit and proper on the facts and circumstances of the case.

8.4 That the cost of the proceedings may kindly be granted in favour of the Applicant."

3. So far as relief of clause 8.2 is concerned, the same has already been granted

by the respondents during the pendency of this case as the applicant was transferred from INS Utkrosh to Central Ordinance Depot, Delhi Cantt. on compassionate grounds for medical reasons vide IHQ, MoD (Army) New Delhi letter No.1600/Nov/2015/MP-4/(CIV)(G) dated 2nd November 2015 and the applicant also reported to Central Ordinance Depot., Delhi Cantt. Vide INS Utkrosh Movement Order No.205/15 Filr No.272/3 dated 23rd December 2015. Therefore, the said relief has become infructuous.

4. Now the issue remains in this case is relating to dispute with regard to payment of medical reimbursement.

5. Brief relevant facts of the case as enumerated in this case are that the applicant, while working as Fireman Grade-II in the respondents organisation and posted in INS Utkrosh, Port Blair, suddenly suffered stroke of paralysis on 13.1.2012 and was referred to higher centre for further neurological evaluation as suggested by the Medical Specialist, GBPH, Port Blair by Ship being fit to travel on 17.1.2012 and according was permitted to take passage by ship/flight plying to Chennai by Lt. commander, Civilian Establishment Officer vide letter dated 57/2012 dated 17.1.2012.

5.1 Thereafter applicant was brought to Lok Nayak Hospital, New Delhi on 19.1.2012 from where the applicant was referred to All India Institute of Medical Science, New Delhi for Brain suite on 2.2.2012 and on 3.2.2012 he was taken to the Department of Neuroradiology, All India Medical Science, New Delhi and had been constantly receiving treatment and medical aid at New Delhi from time to time with slight improvement.

5.2 Applicant further submitted that applicant was admitted in Sir Ganga Ram Hospital, New Delhi for surgery from 10.2.2012 to 29.2.2012 where his brain surgery had taken place on 13.2.2012 and he was discharged on 29.2.2012.

5.3 During the treatment, applicant incurred an expenditure of Rs.2,84,575/- towards his treatment and the applicant had submitted the bill for medical reimbursement claims in two lots (claim No.1 for Rs.2,01,137/- and claim No.2 for Rs.83,438/-) during December 2012 to INS Utkrosh for payment.

5.4 The respondents vide letter dated 21.12.2012, informed the applicant that the aforesaid medical reimbursement claims have already been submitted to Audit Authority for early payment. However, the bill has received back for want of some documentary proof and vide the said letter, the applicant was directed to submit the information as required by Audit Authority for forwarding the same for re-submission of the medical claim of the applicant. Vide letter dated 22.1.2016, the claim of medical reimbursement of the applicant was re-submitted to the competent authority after duly completing the point wise observations raised by JCDA (ANC) vide letter dated 16.10.2015 and the competent authority vide cheque slip of amount of Rs.100625/-, as against the amount Rs.2,84,575/- of medical reimbursement claim of the applicant, was issued by the respondents during the pendency of this OA and the said amount

was restricted to the rates of existing CGHS/CSMA Rules.

6. Having regard to the aforesaid facts and circumstances of this case, the grievance of the applicant, which now remains is with regard to full reimbursement as against the partial reimbursement of his medical reimbursement claim, as the respondents have restricted the same to the amount of Rs. 100625/- as against Rs.2,84,575/-.

7. This matter came up for hearing on 26.11.2018, when this Tribunal passed the following orders:-

"When the matter is taken up, counsel for the applicant states that she needs an opportunity to show that the applicant was directed to take medical treatment from Sir Ganga Ram Hospital. Counsel for the respondents denies the same and states that in fact, the applicant was referred to a CGHS approved Hospital. As this is a matter of fact, the applicant is given last opportunity to show the relevant papers according to which it has been stated that she was referred to Sir Ganga Ram Hospital."

8. This case was again listed for hearing on 27.11.2018 and this Tribunal passed the following orders:-

"On the previous date, the applicant was given the last opportunity to show the referral by the respondent to Sir Ganga Ram Hospital. Today proxy counsel for the applicant appears and seeks another opportunity. The same is not permitted as parties had been heard at length earlier and applicant had only wanted to give the copy of the Respondents' order referring him to treatment to a private hospital other than CGHS empaneled hospital."

9. This Court also carefully examined the pleadings available on record. However, this Court is unable to find any document to establish that the applicant was actually referred to Sir Ganga Ram Hospital for treatment by Lok Nayak Hospital, New Delhi or by AIIMS. It is a settled law of the land that in emergent circumstances, there is no need for any referral for treatment and the treatment can be taken in any hospital but when a patient was already under the treatment of Lok Nayak Hospital, New Delhi and thereafter in AIIMS, New Delhi, as averred in the OA by the applicant himself, what were the circumstances which warranted the applicant to admit himself in Sir Ganga Ram Hospital, New Delhi, which is admittedly not in the CGHS panel, have not been stated in the OA by the applicant.

10. However, the applicant's plea is that applicant has obtained the counter signature from Medical Superintendent, GB Pant Hospital, Port Blair who has duly mentioned Sir Ganga Ram Hospital, Delhi in the referral letter dated 22. 1.2015. But the fact remains that the said treatment was taken by the applicant in the year 2012 and admittedly the applicant was under the treatment of Lok Nayak Hospital, New Delhi and AIIMS, New Delhi, and also got further treatment from Sir Ganga Ram Hospital, but due to non-availability of any document which

shows that actually the applicant was referred to the said Sir Ganga Ram Hospital and also the fact that applicant has not produced any such document despite opportunity being granted for this purpose, this Court is not inclined to interfere in this matter as the respondents have already reimbursed the admissible amount against the applicant's medical claim as per the rates of existing CGHS/CSMA Rules. As such the present OA is dismissed. There shall be no order as to costs.