
(2018) 04 RAJ CK 0099

In the Rajasthan High Court

Case No : Spl. Appl. Writ No. 1162 of 2014

State of Rajasthan @APPELLANT@Hash Ashok Kumar Jain

Date of Decision : 02-04-2018

Acts Referred:

Rajasthan Civil Services (Medical Attendance) Rules, 1970 — Rule 6, 6(1), 7(2)

Citation : (2018) 04 RAJ CK 0099

Hon'ble Judges : PRADEEP NANDRAJOG, CJ; VINIT KUMAR MATHUR, J

Bench : Division Bench

Advocate : Rajesh Panwar, Rajesh Shah

Judgement

1. Heard learned counsel for the parties.

2. While working as Sub Divisional Magistrate in the State of Rajasthan, the respondent fell ill on 12.05.2006 and was admitted in a local Government

Hospital at Sirohi, where from he was discharged on 15.05.2006 without further reference to any other hospital. He went to his home town in Agra

after availing leave and in the intervening night of 8th & 9th June, 2006 suffered a cardiac problem. His family rushed him to All India Institute of

Medical Sciences, New Delhi where he underwent Angioplasty. Two stents were inserted. Total bill raised by All India Institute of Medical Sciences

is ₹ 2,73,887/-. The State of Rajasthan only offered ₹ 75,000/-. The respondent did not accept the same. He filed a writ petition. Under an interim

order, ₹ 1,10,000/- was paid. Vide order impugned dated 03.04.2014 full amount has been directed to be paid.

3. The issue has to be decided as per the Rajasthan Civil Services (Medical Attendance) Rules, 1970. Rule 6A reads as under:

6. Medical attendance and treatment outside Rajasthan.—[(1) A Government servants including members of his family posted to a station or sent

on duty or spending leave or otherwise at a station outside Rajasthan in India and who falls ill shall be entitled to free medical attendance and

treatment as an indoor and outdoor patient in a Hospital maintained by the Central Government or other State Government on the scale and conditions

which would be admissible to him under these rules, had he been on duty or on leave in Rajasthan.

(2) For the purpose of this rule "Authorised Medical Attendant" in respect of a Government servant or class of Government servant at a station outside

Rajasthan shall mean an officer of Medical Department of Central or other State Government (as the case may be) on duty in a Government Hospital

or Dispensary at that station.

(3) The charges paid by the Government Servant posted at Delhi to the following private hospitals/clinics for X-Ray, Pathological, Bacteriological,

Radiological tests and other kind of investigations which are considered necessary by the doctor of the State Government posted in Delhi, shall be

reimbursed:-

1. Sunderlal Jain Charitable Hospital, Ashok Vihar,

2. Massonic Charitable Polyclinic, Janpath, and

3. Sir Gangaram Hospital, Rajendra Nagar.]??

4. Rule 7 reads as under:-

7. Treatment of a disease for which treatment is not available in the State. -

(1) A Government servant and the members of his family suffering

from a disease for which treatment is not available in any Government hospital in the State shall be entitled to medical attendance and treatment to the

extent indicated in sub-rule (2) of this rule in a Hospital/Institution outside the State recognised by the Government, provided that it is certified by the

Principal of a Medical College/Director of Medical & Health Services on the basis of opinion of the Authorised Medical Attendant to the effect that

the treatment of a particular disease from which the patient is suffering is not available in any Government Hospital in the State and it is considered

absolutely essential for the recovery of the patient to have treatment at a hospital outside the State.

(2) The following charges / expenses shall be reimbursable:-

(a) Cost (including Sales Tax) of Allopathic Drugs, Medicines, Vaccines, Sera or

other therapeutic substances reimbursable under these rules.

(b) Sums actually paid to the Hospital/Institution on account of medical attendance and treatment including charges for surgical operations and ordinary nursing facility.

(c) Travelling allowance for journey by rail/road from duty point at the station at which the patient falls ill to the place of treatment outside the State

and back to a single fare of the class to which his classification entitles him under Rajasthan Travelling Allowance Rules. Such travelling allowance

shall also be admissible for an attendant, if the Authorised Medical Attendant certifies in writing that it is unsafe for the patient to travel unattended

and that an attendant is necessary to accompany the patient to the place of treatment and back.

(3) The facility of medical attendance and treatment in the type of cases mentioned in sub-rule (1) can be had at any of Hospitals/Institutions

mentioned in Appendix 11.

(4) For the purpose of reimbursement, the original receipts issued by such Hospital/Institutions and vouchers of medicines etc. shall be countersigned

by the Authorised Medical Attendant of Government Hospital on whose advice the treatment outside the State was undertaken.

[7A. Grant of advance for medical attendance and treatment outside the State. â?

Â (1) A Government servant and member(s) of his family, who are entitled to free medical attendance and treatment outside the State in terms of

Rule 7 may be granted advance equivalent of the amount considered sufficient for the required medical attendance and treatment by the Principal of a

Medical College or the Director, Medical & Health Services or Rs. 5,000/- whichever may be the less. The estimated amount of reimbursable

expenditure on medical attendance and treatment outside the State should invariably be indicated in the certificate to be given by the Principal or the

Director, Medical and Health Services.

(2) The advance shall be sanctioned by the Head of Office keeping in view the estimated amount of expenditure indicated in the certificate or the

pecuniary limit mentioned in sub-rule (1).

(3) The advance shall be debited to head of account to which pay and allowances of the Government servant are debited.

(4) (i) Once an advance has been sanctioned, further advance shall not be allowed until the medical reimbursement claim(s) to the extent of amount of previous advance has been submitted for adjustment.

(ii) The entire amount of advance shall finally be adjusted against the due medical reimbursement claim under these rules not later than the expiry of a period of one month from the date of release of the patient from the hospital. The unspent amount of advance, if any, shall invariably be paid in cash.]â??

5. Suffice to highlight that as per sub-rule (1) of Rule 6, a government servant in the State of Rajasthan if on leave visits a station outside Rajasthan and falls ill, he would be entitled to free medical attendance and treatment either as an indoor or outdoor patient in a hospital maintained by the Central Government or other State Government on the scale and conditions which would be admissible to him under the rules, had he been on duty or on leave in Rajasthan.

6. Now, the respondent undertook treatment at a hospital established by the Central Government.

7. As per sub-rule (2) of Rule 7, reimbursement has to be made for cost of drugs and medicines and such sums actually paid to the hospital or an institution where the person was admitted.

8. In view of clear language of Clause-b of sub-rule (2) of Rule 7, there cannot be any capping under executive instructions for reimbursement where claim is for actual money paid to the hospital established by the Central Government.

9. Thus, we find no merit in the appeal and uphold the impugned decision dated 03.04.2014.