

RESERVED

ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW

Court no.3

A.F.R.

O.A. No. 153 of 2012

Friday this the 31st day of May, 2013

Hon'ble Mr. Justice Virendra Kumar Dixit, Judicial Member
Hon'ble Lt. Gen. B.S.Sisodia, Administrative Member

JC No. 175654A Sub (Retd) Satya Narain Singh
S/o Sri Chandrej Singh
R/o 588A/282 Pawanpuri Colony Devi,
Khera Ring Road, Lucknow

.... Applicant

By Legal Practitioner – **Sri Parijaat Belaura**

Versus

01- Union of India through, The Secretary,
Ministry of Defence, ,
New Delhi

02- The Central Organization ECHS (L&D) Adjutant General Branch
Integrated Headquarters of Ministry of
Defence (Army) Maude Lines, Delhi Cantt.- 10
Post Office New Delhi

03- Station Head Quarter Cell (ECHS) Old CMDS
Building Lucknow
Jabalpur (M.P.)

04- Regional Centre, ECHS, 3- Rani Laxmibai Marg
LUCKNOW- 226002

.....Respondents

Counsel for the respondents-
Sri A.K.Singh, Central Govt.Counsel
for the respondents

ORDER

(Per Justice Virendra Kumar Dixit, Judicial Member)

01. This Original Application (in short OA) has been filed under section 14 of the Armed Forces Tribunal Act, 2007, whereby the petitioner has claimed following reliefs :-

- (i) To quash the order dated 10-5-2010 as well as order dated 12-1-2006 being illegal and arbitrary.
- (ii) To issue order or direction to opposite parties to pay Rs.3750.00 (difference of bill of SGPGI and reimbursement to the applicant) and further be pleased to direct the opposite party to pay interest at the rate of 12% on the aforesaid amount till actual date of payment to the applicant.
- (iii) To direct the opposite parties to permit the applicant to avail

the facilities of private ward as he is entitled for private ward as per GOI letter dated 19-12-2003 (so called regulations)

(iv) To allow this Original application with cost.

02. In brief the facts of the case are that the applicant was enrolled in the Indian Army and has been discharged in the rank of Subedar. The applicant is a member of Ex Servicemen Contributory Health Scheme. The applicant suffered Heart problem and was admitted in Sanjay Gandhi Post Graduate Institute, (In short S.G.P.G.I, Lucknow) on 15-12-2009 and was finally discharged on 26-12-2009. The applicant was admitted in the hospital for 09 days (one day in General Ward, 3 days in MICU and 5 days in Private Ward). The applicant made payment of Rs.2,48,007/- in SGPGI, Lucknow. The applicant thereafter submitted a bill of Rs.2,48,007/- before Respondent No.3 for reimbursement but he was paid only Rs.2,44,257/-. On account of less payment the applicant wrote a letter on 10-4-2010 to Respondent No.3 asking the rate of bed charges. By means of impugned letter dated 12-5-2010 the applicant was informed that the applicant being a JCO is not permitted to avail the facilities of Private ward in SGPGI, Lucknow and is only entitled for general ward.

03- Heard **Sri Parijaat Belaura**, learned counsel for the applicant, **Sri A.K.Singh**, learned Central Govt. Counsel for the State and perused the impugned orders dated 10-5-2010 and 12-1-2006 including other relevant documents.

04- Learned counsel for the applicant has submitted that the applicant is a retired Subedar and is a member of Ex Servicemen Contributory Health Scheme (ECHS). It is further submitted that as per Govt. of India Ministry of Defence, letter dated 19-12-2003 (annexed as Annexure A-7 of O.A.) which is reproduced below, entitlement for indoor treatment is not according to the rank but according to monthly basic pension:-

“4 (c) (iii) Entitlement for indoor treatment”. Charges as applicable to CGHS will apply. ECHS beneficiaries shall be entitled to General/ Semi Private / ward facility in empanelled hospitals according to their monthly pension as under.

Basic Monthly Pension (Rs) Entitlement of Hospital Beds

5251 and above

Private ward

3751 to 5250

Semi Private ward

3750 and less

General ward

It is also submitted that at the time of applicant's admission his basic pay was Rs.11970/- which enables the applicant to avail the facilities of Private ward according to Govt. of India letter dated 19-12-2003. It is further submitted that as per Govt. of India letter dated 19-12-2009, it is clear that charges as applicable to Central Government Health Scheme will apply to the members of ECHS and thus the applicant is entitled for reimbursement of Rs.1000/- per day for room.

05. Learned counsel for the applicant has assailed the impugned orders dated 10-5-2010 and 12-1-2006 (Annexure -1 and 2 of T.A.) on the ground that as per Govt. of India letter dated 19-12-2003 entitlement of ward is not as per rank but as per basic pension and accordingly the applicant is entitled for private ward and by no stretch of imagination it can be said that the applicant being a JCO is not entitled for private ward.

06-. Learned Standing Counsel for the respondents has submitted that though the JCOs are entitled to Semi Private Ward in SGPGI, Lucknow but the Hospital has got only two types of wards i.e. Private and General Wards, where JCOs are entitled for admission in General ward and not in Private Ward. It is further submitted that policy with regard to entitlement of indoor treatment has been specified vide Govt. of India letter annexed

as Annexure- CR-2). In SGPGI Lucknow, the JCOs are entitled for treatment in General Ward since Semi Private Ward is not available as per ECHS letter dated 12-1-2006 (Annexure CR-3 to the Counter Affidavit). This was informed to the applicant vide Station HQ Cell (ECHS) letter dated 10-5-2010 and 6-7-2010 (Annexure-CR 4 & 5 to the Counter Affidavit)

It is also submitted that the applicant had submitted a bill for Rs.2,48,007/- for reimbursement but was only reimbursed Rs 2,44,257/- by disallowing Rs 3750.00 (the expenditure incurred towards private ward). Letters of the applicant dated 10-4-2010 and 04--5-2010 were replied vide letter No. 160142/ECHS/ Reimb dated 10th May 2010 (Annexure- CA-1). It is further stated that entitlement of indoor treatment as specified vide Govt. of India Ministry of Defence letter no.24 (8)/03/US (WE))/ D(Res) dated 19-12-2003 for availing indoor treatment facilities in a Private ward based on monthly pension has been superseded vide Government of India,. Ministry of Defence letter no. 22(16)/05/US (WE)/D (Res) dated 19th July 2005 .

07. In the instant case the applicant was admitted in SGPGI, Lucknow as a emergency case. His stay in this hospital was of 09 days. He was kept 01 day in general ward, 03 days in MICU and 05 days in Private Ward. It is revealed that SGPGI has only two categories of ward i.e.

General and Private Wards. As per the ECHS letter under reference, a JCO (Ex-serviceman) is **authorized Semi Private Ward** and if such ward is not available then patient be admitted in General ward. Since, in SGPGI, there was no category such as semi private ward available, therefore, applicant's claim for Private Ward was disallowed by respondents no.2 and allowed the rates of General Ward.

08- Relevant portion of the letter dated 04-5-2010 of the applicant (**Annexure-1-A** of Supplementary Counter affidavit)for the payment of hospital accommodation charges reads as follows:

“ **3-** I was referred to SGPGI Lucknow on 15-12-2009 by department of Cardiology CH (CC) Lucknow after the CART I was discharged from SGPGI on 18-12-2009. There was massive heart attack on the very next day i.e. on 20-12-2009 and I was immediately rushed to SGPGI for emergency treatment on 20-12-2009. However, I was treated and discharged from SGPGI on 26-12-2009. I had submitted my medical claim papers, bills for reimbursement of amount **Rs.2,48,007/- (Rs. Two Lakh Forty Eight Thousand and seven only)**. But I had received the cheque of **Rs.2,44,257/-** only.

04- It is further submitted that ECHS (LKO) has not considered my hospital accommodation charges which I was entitled. ECHS (LKO) has made the payment as general ward which is **Rs.250/-** per day instead of **Rs.1000/-** the rate of semi private ward.”

09- For the sake of ready reference, the ECHS letter under reference are reproduced below:

No.22(16)/5/US(WE)/D(Res)
Govt. of India
Ministry of Defence

Deptt. Of Ex Servicemen Welfare
New Delhi- 19th July 2005

To,
The Chief of Army Staff
The Chief of Naval Staff
The Chief of Air Staff

CORRIGENDUM

“1- Further to the Government of India, Ministry of Defence letter No. 24(8)/03/US (WE)/D (Res) dated 19 Dec. 2003

2- With effect from the issue of this letter the ECHS beneficiaries shall be entitled to General/ Semi Private/ Private Ward facility in empanelled hospitals according to their rank structure as under:

Rank	Entitlement of Accommodation Hospitals
Officers	Private Ward
JCOs (Nb Sub to Sub Maj including Hony Ranks of Lt/Capt and Equivalent)	Semi Private Ward
NCOs (Sep to hav including Hony Ranks of Nb Subedar and Equivalent)	General Ward

3- Para 4 (c) (iii) of the Procedure for Payment and reimbursement of medical expenses under ECHS will stand amended accordingly.

4- This issues with the concurrence of Ministry of Defence (Finance) vide their U.O. No. 717/AG/PD dated 14.07.2005.

Yours faithfully,
Sd/XXXXXXXXXX
Under Secretary to the Govt. of India

Central Organization ECHS
Adjutant General's Branch
Army Headquarters
Maude Line
Delhi Cantt- 110 010

B-49770/AG/ECHS

12th Jan. 2006

Regional Centre ECHS
Lucknow-2

Letter dated 12-1-2006 (Annexure-3)
ENTITLEMENT OF WARD FOR JCOS

- 1- Please refer your letter No.1130/Gen/ECHS dated 25-11-2005
- 2- As per GOI Regulations laid down for ECHS, JCOs are authorized admission in a Semi Private Ward and not in Private Ward. This holds true even if the rates of Private ward are equivalent to the maximum room rent permissible for a semi private ward (as in the case in ref.)
- 3- In view of the above JCOs cannot be permitted to avail of the facilities of private ward in SGPGI. They may, however avail the General Ward facilities and claim accordingly.

Sd/ XXXX"

Stn HQ Cell (ECHS)
Old CMDC Building
LUCKNOW

160142/ ECHS/ Reimb

10 May 2010

Sub Satya Narayan Singh (Retd)
H.No.588A/282
Devikhera Ring Road
Pawanpur Colony
LUCKNOW-2

ENTITLEMENT OF WARDS FOR JCOS

- 1- Ref your application dated 10 Apr.10 and dt 04 May 2010
- 2- **As** per instructions contained in Central Org. ECHS letter No. B/49770/AG/ECHS dated 12 Jan 2006, JCOs are not permitted to avail the facilities of private ward in SGPGI and are entitled admission in general ward only. The claim had been admitted as per the rates of general ward in SGPGI at Rs.250/- per day.

Sd/ FM Shaikh

Lt. Col.

OIC ECHS Cell

For GOC Sub Area

10- It is very loud and clear that the applicant JCO (Ex-serviceman) was authorized for Semi Private Ward and he was very much entitled to claim the rates of semi Private Ward then sanction of claim for general ward by the respondent which is lower in rates and also in status of a JCO is not justified at all. On the contrary, authorities should have allowed and passed claim at the rates of private ward where Semi Private Ward was not available.

11- In the case of **Union of India and others Vs. Rajpal Singh,** (2009) 1 SCC page 216 in **Para 26** of the judgment it was held by Hon'ble Apex Court that it is well settled rule of administrative law that an executive authority must be rigorously held to the standards by which it

professes its action to be judged and it must scrupulously observe those standards on pain of invalidation of an act in violation of them...”

12- The rules and regulations are guidelines and must be judiciously applied and implemented, keeping in mind, the honour and welfare of all ranks in the Armed Forces. The Govt. difficulty in bearing additional financial burden can not be accepted as a valid ground for denying legitimate support to any of the Armed Forces personnel who have sacrificed his young hood for the good cause of the Nation. We fully endorse and appreciate the plea and concern of the applicant. The amount of Rs. 3750/- is a meager amount but in principle, applicant is very much entitled for the balance amount. There can be no dignity without magnanimity and it seems that the applicant has not filed the present O.A. for the petty sum but for the rights, dignity, status and honour of the soldier who had served the nation as a JCO.

13. From a perusal of relevant documents on record it appears that the respondents passed the impugned orders without considering the facts, rules and regulations in its entirety and thus the said orders are not sustainable in the eyes of laws. We are of the view that if an Ex-Army Personnel entitled for Semi Private Ward, **in medical emergency**, is

admitted in an empanelled hospital where Semi Private Ward facility is not available like the case of SGPGI, Lucknow and he avails the facility of private ward, under these circumstances in all fairness he should be paid charges of private ward.

14- In view of the aforesaid facts and pleadings of the rival parties and also in the interest of justice, we are of the considered opinion that the impugned orders dated 10-5-2010 and 12-1-2006 (Annexure- 1 and 2 to the O.A) are unjust and against the principles of natural justice, deserve to be set aside and the applicant is entitled for the rate of Private Ward, since there is no category of Semi Private ward in the Sanjay Gandhi Post Graduate Institute, Lucknow, where the applicant was admitted due to medical emergency.

15. Thus in the result, the O.A. succeeds and **is allowed with costs**. The impugned orders **dated 10-5-2010 and 12-1-2006** (Annexure- 1 and 2 to the O.A.) are set aside and the Respondents are directed to pay Rs.3750/- (Rupees Three Thousand Seven Hundred and Fifty only) with interest at the rate of **6% per annum** from the date when the amount became due till the date of actual payment, within three months from the date of production of a Certified Copy of this Order before the authority

concerned .

(Lt. Gen.B.S.Sisodia)
Administrative Member

(Justice V.K.Dixit)
Judicial Member

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