

RESERVED**ARMED FORCES TRIBUNAL, REGIONAL BENCH,
LUCKNOW****ORIGINAL APPLICATION No. 132 of 2021**Friday, this the 12th day of November, 2021**Hon'ble Mr. Justice Umesh Chandra Srivastava, Member (J)**
Hon'ble Vice Admiral Abhay Raghunath Karve, Member (A)

Service No. 6434075, Honorary Flying Officer Chandra Shekhar Pathak (Retd), S/o Shree Narbadeshwar Pathak, resident of Village-Nasirabad, Post Office-Sagarpaliri, District-Ballia (U.P.).

..... Applicant

Ld. Counsel for the : **Shri Nagendra Bahadur Singh** Advocate.
Applicant

Versus

1. The Union of India, through the Secretary, Ministry of Defence (Air Force), New Delhi-110011.
2. The Chief of Air Staff, Air Headquarters, Vayu Bhawan, New Delhi-110011.
3. Director, Dte of Air Veteran, Subroto Park, New Delhi-110010.
4. The Managing Director, ECHS, Army Hqs, AG's Branch, Maudelines, Delhi Cantt. PIN-110008.
5. Regional Centre ECHS, 38 Manekshaw Road, New Cantt, Allahabad.
6. Officer-in-Charge, ECHS Polyclinic, 2B/329, Avas Vikas Loknaya Nagar, Ballia (UP), Pin-277001.

..... Respondents

Ld. Counsel for the
Respondents.**Shri Rajiv Pandey**, Advocate
Central Govt. Counsel

ORDER

1. The instant Original Application has been filed under Section 14 of the Armed Forces Tribunal Act, 2007 for the following reliefs:-

- (i) *To issue/pass an order or directions to the respondent to re-imburse and pay the applicant's claim of Rs 20,67,229/- which was submitted to the ECHS Polyclinic on 01.09.2016 and pending since then. The claim was forwarded to BPA on 15.12.2016 as intimated vide letter dated 12.04.2018 (Annexure No-7) and 25.10.2018. The claim is stated to have been reimbursed as intimated vide letter dated 09.04.2018 (annexure No-5) but not disbursed to applicant till date.*
- (ii) *To issue/pass an order to set-aside/quash the recommended action of rejection of applicant's re-imburement claim by Bill processing Agency for ECHS in respect of his Liver Transplantation which came to the notice of applicant on 11.04.2018 through electronic postal copy of which is attached as (Annexure No A-1) to this original application.*
- (iii) *To issue/pass any other order or direction as this Hon'ble Tribunal may deem just, fit and proper under the circumstances of the case in favour of the applicant against the respondents considering the sympathetic facts that the applicant is being forced to repay the loan taken on interest at the market rate since September 2016.*
- (iv) *To allow this original application with costs.*

2. Brief facts of the case giving rise to this application are that the applicant was enrolled in the Indian Air Force (IAF) on 02.03.1974 and retired from service on 31.10.2013 vide order dated 06.06.2012 after completion of 39 years, 07 months and 29 days of service. He was issued with ECHS Card for availing medical facilities after retirement. He was under treatment at Galaxy Hospital, Varanasi and Command Hospital, Lucknow for Chronic Liver Disease. Vide order dated 24.06.2016 he was referred to ECHS Lodhi Road, New Delhi. The applicant instead of reporting to Lodhi Road, directly got him admitted to Medanta, Gurgaon on 27.06.2016 and underwent

liver transplant surgery on 19.07.2016 and incurred expenses amounting to Rs 20,67,229/-. He uploaded the aforesaid claim at BPA portal vide ID No 6639057. Later, the claim was rejected on certain grounds like prior approval which the applicant did not take. Thereafter, 53rd Screening Committee Meeting held at MOD DOESW on 16.01.2020 recommended the case on the ground that applicant had obtained a referral form from his local polyclinic for treatment. On 20.02.2020 the claim was further processed and on 06.03.2020 BPA recommended payment of Rs 15,17,987/- out of Rs 20,67,228/- , as per CGHS/ECHS rates, policies and guidelines, vide letter dated 22.02.2021 and process for making payment is in progress. Applicant has filed this O.A. for re-imburement of full amount i.e. 20,67,228/-.

3. Submission of learned counsel for the applicant is that the applicant was in critical condition when he was referred to ECHS, Lodhi Road for further treatment of liver. He submitted that applicant underwent liver transplant surgery in Medanta Hospital, Gurgaon on 27.06.2016 without taking prior approval as per policy letter dated 28.03.2013 since his life was in danger and liver transplant was necessitated for his survival. His further contention is that an amount of Rs Rs 20,67,229/- was expended in connection with aforesaid transplantation and he submitted bills for sanction by uploading the claim at BPA Portal ID 6639057. He however, submitted that on recommendation of High Power Committee, a sum of Rs 15,17,978/- is being sanctioned as intimated vide letter dated 22.02.2021. Learned counsel for the applicant has relied upon the Hon'ble Apex Court judgment in Civil Appeal No. 694 of 2015

decided on 13.04.2018, **Shiva Kant Jha vs UOI & Ors** and submitted that in that case applicant was allowed to claim full amount expended by him on account of treatment in non-empanelled hospital. His averment is that applicant should also be entitled to full re-imbusement of the amount expended on account of liver transplantation, in a non-empanelled hospital.

4. On the other hand, submission of learned counsel for the respondents is that applicant was directed to report to ECHS, Lodhi Road, New Delhi but instead of reporting there he went straightway to Medanta Hospital, Gurgaon and got himself admitted on 27.06.2016 without obtaining prior sanction from the competent authority as per policy letter dated 28.03.2013. His further submission is that after submission of his bills the aforesaid claim went around various departments but finally a High Power Committee recommended his claim for processing and lastly Rs 15,17,978/- has been sanctioned vide letter dated 22.02.2021.

5. We have heard learned counsel for the parties and perused the material placed on record.

6. A govt employee during the course of his/her service and after retirement is entitled to medical facilities irrespective of the post he/she is/was holding. It is not disputed that applicant was suffering from liver disease and he was referred to ECHS, Lodhi Road, New Delhi for further treatment. Instead of reporting to ECHS, Lodhi Road he straightway went to Medanta Hospital, Gurgaon where he underwent liver transplantation surgery on 19.07.2016 without obtaining prior approval required vide letter

dated 28.03.2013. Applicant remained admitted in the said hospital for the period 27.06.2016 to 02.08.2016 and total expenditure of Rs 20,67,229/- was incurred by him. The bill in question was submitted for approval and payment but it was returned on account of certain objections and finally it was approved by a High Power Committee. In this regard, Govt of India, Ministry of Defence issued sanction letter dated 22.02.2021 (Annexure CA-1) addressed to Regional Centre, ECHS, Allahabad with a copy to applicant indicating therein that an amount of Rs 15,17,978/- be paid to applicant on account expenses in connection with his liver transplantation.

7. Certain amounts have been fixed for various ailments and transplantations vide policy letter dated 28.03.2013. On perusal of para 1 (h) (i) of aforesaid policy letter, it transpires that an amount of Rs 14,00,000/- (fixed package) can be re-imbursed on account of liver transplantation surgery excluding some miscellaneous charges that are also re-imbursible.

8. In the instant case an amount of Rs 15,17,978/- has been sanctioned vide letter dated 22.02.2021 and it is about to be paid to applicant shortly, the process of which is in progress as mentioned in letter aforesaid.

9. The Hon'ble Supreme Court and the High Courts have been conferred special powers under Article 142 and 32 of Constitution of India respectively to pass any order necessary to do complete justice but the Tribunal has not been empowered to that extent. It is also observed that the case law cited by learned counsel for the applicant may not be of any help to the case in hand as order dated

13.04.2018 clearly specifies that the said decision was confined to that case only.

10. In view of the above, we are of the view that amount that has been sanctioned by Govt of India, Min of Defence vide letter dated 22.02.2021 is in accordance with policy on the subject and no injustice seems to have been done to applicant.

11. The O.A. which deserves to be dismissed, is hereby **dismissed**.

12. No order as to costs.

13. Pending miscellaneous applications, if any, stand disposed off.

(Vice Admiral Abhay Raghunath Karve)
Member (A)

(Justice Umesh Chandra Srivastava)
Member (J)

Dated: 12 November, 2021

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