

ARMED FORCES TRIBUNAL, REGIONAL BENCH, LUCKNOW**Original Application No 294 of 2020****Thursday, this the 30th day of November, 2023****Hon'ble Mr. Justice Ravindra Nath Kakkar, Member (J)**
Hon'ble Lt Gen Anil Puri, Member (A)

No. 3006568-X Naik Shakti Singh (Retd), aged about 37 years, son of Shri (Late) Charan Singh resident of Village & Post : Bhoopkheri, The - Khatauli, Dist – Muzaffarnagar (UP)-251201

..... Applicant

Ld. Counsel for the Applicant: **Shri Shailendra Kumar Singh**, Advocate

Versus

1. Union of India, through the Secretary, Ministry of Defence, New Delhi-110011.
2. The Chief of the Army Staff, Integrated HQs of MoD (Army) South Block, New Delhi -110011.
3. DCOAS (P&S), Dte Gen of Infantry/Inf-6 (Pers), General Staff Shakha, IHQ of MoD (Army), Sena Bhawan, New Delhi-110045
4. COS, HQ Uttar Bharat Area, PIN : 900496, C/O 56 APO
5. GOC, HQ 9 Inf Div, PIN 908409, C/O 56 APO
6. CO, 14 Rajput, PIN : 912114, C/O 56 APO
7. Sr. AO (M), O/o CDA (Army), Belvedere Complex, Ayudh Path, Meerut Cantt (UP)-250001.

..... Respondents

Ld. Counsel for the Respondents : **Shri Arvind Kumar Pandey**,
Central Govt Counsel.

ORDER (Oral)

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

- “(A). to direct the respondents to process the applicant’s balance amount of Rs 7,25,377 (Rs 5,52,542/- balance claimed amount) plus Rs 1,72,835/- (Expenditure on Bone Transplantation) claim for reimbursement of expenditure incurred by him on his mother’s treatment in Civil Hospital within stipulated period as deemed fit and proper by this Hon’ble Tribunal.
- (B). to pay the interest on said amount of Rs 7,25,377/- at the rate as deemed fit and proper by this Hon’ble Tribunal for non action of Respondents in accordance to existing rules and procedure.
- (C). to pass any order as deemed fit and proper by this Hon’ble Tribunal in the circumstances of the case.
- (D). to impose an exemplary cost on Respondent No 7 for his whimsical approach while dealing/processing the said claim under CGHS Scheme despite knowing well that Armed Forces Personnel are not governed with said scheme rather are governed by ECHS Scheme.”

2. The brief facts of the case are that applicant was enrolled in the Army on 15.06.2003 and discharged on 30.06.2020. While serving in 14 Rajput Regiment located at Meerut, on 11.07.2014, applicant’s dependent mother Smt Murti Devi met with an accident at Meerut while returning from hospital after collecting medicine for herself. She was brought up to Military Hospital Meerut in unconscious state. Military Hospital Meerut referred her

to Government Medical College for further treatment due to non availability of Neuro-Surgeon at Military Hospital, Meerut. The Doctors at SVBP Hospital, Meerut, LLRM Medical College, Meerut, after examining the patient again referred her to Higher Medical Centre for further management. Her injury was diagnosed as **“Severe Head Injury with Bifrontal Contusion with left Frontotempoparietal Acute Subdural Hematoma”**. The treatment was started to save her life. She was treated from 11.07.2014 to 28.08.2014 and discharged from Civil Hospital on 28.08.2014. Till 28.08.2014, applicant had paid a sum of Rs 7,28,982/- to Hospitals on her mother’s treatment. Since applicant was not able to arrange money for her further treatment in Civil Hospital, he requested the authorities to shift his mother to Base Hospital, New Delhi for further treatment. On 29.08.2014, she was shifted to Base Hospital, New Delhi wherein she was treated for next 18 days and thereafter due to non availability of Neuro-Surgeon at Base Hospital, New Delhi, she was referred to Army R&R Hospital, New Delhi wherein she was admitted and undergone required treatment for approximately one month. On 12.11.2014, applicant’s unit processed the claim for re-imburement of medical expenditure of Rs 7,28,982/- to CDA (A) Meerut alongwith Statement of Case and Contingent Bill duly recommended by all Commanders in chain; however, CDA (A) Meerut passed only Rs 1,76,440/- out of Rs 7,28,982/- in accordance with prescribed rates of CGHS and paid the same to the applicant on 29.10.2015 i.e after one year of the claim. Applicant submitted a Statutory Complaint against partial re-imburement of medical claim in respect of his mother but the same was not decided till his discharge from service. When enquired through RTI

about his Statutory Complaint, it was replied that due to certain observations it was returned unactioned. On 30.06.2020 applicant was discharged from service on completion of his terms of engagement. Being aggrieved, the applicant has preferred the present Original Application.

3. Learned Counsel for the applicant submitted that mother of the applicant was totally dependent on the applicant and she was very much authorised medical treatment. When she met road accident and taken to Military Hospital Meerut, she was referred to Government Medical College for further treatment as Neuro-Surgeon was not available in the Military Hospital Meerut. She was then taken to SVBP Hospital and LLRM Medical College for emergency treatment as condition of her mother was very serious. On her treatment from 11.07.2014 to 28.08.2014, a sum of Rs 7,28,982/- was incurred. A Statement of Case for re-imburement of Rs 7,28,982/- was initiated by the unit of the applicant and after getting approved by competent authority i.e. all Commanders in chain, a Contingent Bill for Rs 7,28,982/- was raised but CDA, Meerut had passed only Rs 1,76,440/- out of Rs 7,28,982/- as per CGHS rules which is not at all justified. Her treatment was done by Civil Hospitals just to save her life as she was in a critical stage and facility for her treatment in Military Hospital, Meerut was not available. Mere passing Rs 1,76,440/- out of Rs 7,28,982/- by CDA, Meerut as per CGHS rules is not at all praiseworthy. He took loan from his relatives for best treatment of his mother. He pleaded that his case be re-considered sympathetically and amount spent by him on his mother's treatment be re-imbursed to him in toto.

4. Ld. Counsel for the applicant further submitted that on 05 Dec 2014, Col Gill, who was looking after mother of the applicant advised that it would be better if his mother be treated at Sir Ganga Ram Hospital for Bone Transplant. Applicant having no other option, got his mother admitted at Sir Ganga Ram Hospital wherein she had undergone **Cranioplasty with Reposition of Bone Flap i.e, Bone Transplantation**. Applicant met an expenditure of amount of Rs 1,72,835/- for the said Bone Transplantation which may also be reimbursed.

5. On other hand, Learned Counsel for the respondents submitted that applicant's mother was taken to Military Hospital Meerut in a critical stage for treatment and Military Hospital Meerut referred her to Government Medical College for further management. Thereafter, her mother was treated in Base Hospital and R&R Hosp in Delhi. The applicant had spent a sum of Rs 7,28,982/- on her mother's treatment in Civil Hospital out of which a sum of Rs 1,76,440/- has been passed by CDA Meerut as per the applicable rates. Learned Counsel for the respondents submitted that applicant had preferred his claim for full medical expenses of his mother's treatment. The entire procedure of reimbursement is governed by policies and is in no way arbitrary, illegal or unreasonable as claimed by the applicant. Thus, no cause of action accrued to the applicant to file the present application. In view of the law declared by the Hon'ble Apex Court in **State of Punjab and Others versus Ram Lubhaya Bagga and Others** (1998) 4 SCC 117, wherein the Hon'ble Court has held that fixation of rate and scale is justified and cannot be held to be violative of Article 21 or Article 47 of the Constitution of India. He further submitted that his Statutory Complaint regarding non re-imburement of full amount was

returned with certain observations to the applicant vide Rajput Regiment letter dated 03.06.2017 and handed over to the applicant on 23.06.2017, so his contention that his statutory complaint has not yet been decided is wrong. He pleaded that keeping in view the facts and circumstances of the case the O.A be dismissed being devoid of merits.

6. Heard learned counsel for the parties and perused the relevant documents available on record.

7. It is emerged from the above that a dependent member of the Armed Forces is entitled for treatment in Military Hospitals and in emergency in civil hospitals also on referral basis. The applicant was taken to Military Hospital Meerut in a critical stage from where she was referred to Government Medical College for proper management. Her treatment was done by Civil Hospital from 11.07.2014 to 28.07.2014 and a total expenditure of Rs 7,28,982/- was incurred. This amount was paid by the applicant out of his mere resources. On Medical advice of LLRM Medical authorities, she was admitted in Army Base Hospital for treatment and after 18 days treatment she was further referred to Army Hospital R&R as no Neuro-Surgeon was available at Army Base Hospital, Delhi Cantt. On Medical advice of Neuro Surgeon, Col Gill of Army Hospital R&R, she was further taken to Sir Ganga Ram Hospital for treatment.

8. The unit in which he was posted, raised a Contingent Bill of Rs 7,28,982/- for reimbursement of the expenditure incurred on her mother's treatment to CDA Meerut duly recommended by all Superior Commanders in chain. The competent authority i.e GOC, UB Area also approved and sanctioned the whole amount spent on her mother's

treatment but CDA Meerut had passed only Rs 1,76,440/- out of Rs 7,28,982/- after one year as per CGHS admissible rates whichever is less and not full reimbursement.

9. The factual objection has been raised by the respondents that as per their policy, the medical imbursement may be made at CGHS admissible rates or whichever is less and not full reimbursement. In the present case we were called upon to decide the entitlement of the applicant to claim reimbursement of full amount of the medical treatment and that is all.

10. The upshot of the above discussion is that the claim of the applicant for reimbursement of medical bills could have not been denied, in the peculiar facts of the case, on mere technicalities. To put it differently, denial of the reimbursement of the medical expenses in toto by the respondents on this ground is unjustified and calls for judicial interference in the matter. Thus the applicant is entitled to get full re-imburement of the medical expenses incurred by him towards the treatment of his dependent mother.

11. In the result, the O.A. No 294/2020 is allowed and the applicant is held entitled for re-imburement of full medical expenses incurred on account of his mother's treatment in Civil Hospital in total i.e, 7,28,982/-. Since the applicant has already been paid a sum of Rs 1,76,440/- out of Rs 7,28,982/-, the Respondents are directed to pay the balance amount i.e Rs 5,52,542/- expeditiously to him within a period of three months from the date of receipt of certified copy of the order. Default will invite interest @ 8% per annum till actual payment. As regards re-imburement of Rs 1,72,835/- expended on Bone Transplantation (Cranioplasty with

Reposition of Bone Flap) at Sir Ganga Ram Hospital, New Delhi is concerned, applicant is advised to submit his claim to respondents for sympathetic consideration and payment.

12. No order as to costs.

13. Major Danish Farooqui, Departmental Representative for the respondents orally submitted to grant Leave to Appeal against the above order which we have considered and no point of law of general public importance being involved in the case the plea is rejected.

(Lt Gen Anil Puri)
Member (A)

(Justice Ravindra Nath Kakkar)
Member (J)

Dated: 30 November 2023

dds/