

# IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWP No.2332 of 2016

Decided on : 11.09.2026

**Bharat Bhushan Bharmera Retired SDE (BSNL)**

..... Petitioner

***Versus***

**Union of India through Secretary, Department of Tele  
Communication and others**

..... Respondents

*Coram:*

**The Hon'ble Mr. Justice G.S. Sandhawalia, Chief Justice**

**The Hon'ble Mr. Justice Bipin Chander Negi, Judge**

*Whether approved for reporting?<sup>1</sup>*

For the Petitioner : Ms. Seema Kaushal Guleria and Mr. Vivek Singh Thakur, Advocates.

For the Respondents: Mr. Rajiv Jiwan, Senior Advocate with Mr. Hitender Verma, Advocate, for respondents No.2 to 4.

**Bipin Chander Negi, Judge**

The present petition has been filed by the petitioner,  
seeking the following substantive relief(s):-

*“(i) That the impugned order dated 16.05.2016  
(Annexure P-4), passed by respondent No.5*

*may kindly be quashed and set aside by issuing a writ of certiorari.*

- (ii) That the respondents No.1 to 4 may kindly be directed to pay balance amount of Rs.1,69,672/- thus granting full medical reimbursement bill of the petitioner as submitted by the petitioner alongwith 18% interest from the date on which the medical bill was submitted by the petitioner till actual realization of the total amount by issuing a writ of mandamus.*
- (iii) That the respondents No.1 to 4 may kindly be directed to refund the TDS wrongly deducted by them from the medical bills of the petitioner.”*

2. The petitioner, in the case at hand, was working as S.D.E. in Bharat Sanchar Nigam Limited, Dharamshala, and had retired from the said post. Thereafter, the petitioner settled at Dharamshala itself. On 23.2.2013, the petitioner faced an acute heart problem. In view of the same, he was immediately taken to Fortis Hospital, Kangra, wherein he underwent surgery. Post-surgery, the petitioner had submitted his medical reimbursement bills to the respondent-department amounting to Rs. 2,59,672/-. On 27.08.2014, the petitioner was held entitled to Rs. 82,500/- only, after deductions by the respondents from the medical bills so submitted.

3. Subsequent thereto, the petitioner made representations for reimbursement of the balance amount. When nothing was heard in the matter, the petitioner, aggrieved by the partial reimbursement, had filed an *Original Application bearing No. 063/00115/2015* before the Central Administrative Tribunal at Chandigarh.

4. Along with the Original Application preferred, the petitioner had placed on record, Office Memorandum dated 12.09.2007 (Annexure A-3, page 84 of the paper book). From a perusal of the same, it is evident that the Stent inserted in the heart of the petitioner, post-surgery, had been depicted at Sr.No.4 of the aforesaid Office Memorandum. As per the same, for the Stent inserted in the heart of the applicant, the approved rate for re-reimbursement to a beneficiary under CGHS (R&H) Rules, was specified as Rs.95,000/-+ VAT. Besides the aforesaid, along-with the Original Application, Office Memorandum dated 20.3.2012, Annexure A-4 (Page-86 of the paper book), has been placed on record, wherein room rent, as per the entitlement of various categories of BSNLMRS beneficiaries had been specified.

5. In the response filed, reference has been made by the respondent-authorities to the Ministry of Health notification dated 21.2.2013, whereby the revised rate of Stents had been brought down to Rs. 25,000/-. Other than the aforesaid, it had been categorically averred in the reply that CGHS rates do not include items like room rent, as was being claimed by the petitioner. As CGHS package for angioplasty had been fixed at Rs. 55,000/- by the Ministry of Health notification dated 07.02.2013, hence, room rent separately shown and claimed by the petitioner was not held to be admissible to the petitioner.

6. In the aforesaid backdrop, the Central Administrative Tribunal was of the view that the reasons advanced in the written statement are convincing and that the deductions, as have been made, have been made as per rules. However, deduction of TDS by the respondents was held not to be in consonance with the rules, and hence, deductions so made were held to be illegal and invalid.

7. The Original Application was decided vide judgment dated 16.5.2016. Feeling aggrieved by the judgment dated 16.5.2026, passed by the Central Administrative Tribunal,

Chandigarh Bench, Annexure P-4 (Page-31 of the paper book), the present writ petition has been preferred.

8. Along with the writ petition, a letter dated 26.07.2013, Annexure P-9 (Page 43 of the paper book), addressed by the Senior Medical Superintendent, Dr. Rajendra Prasad Government Medical College, Kangra at Tanda to the petitioner, has been placed on record, wherein it has been categorically mentioned that the facility of Angioplasty is not available in the Department of Medicine, Dr. RPGMC, Kangra at Tanda. In so far as Annexure P-9, appended along with the writ petition is concerned, wherein it has been categorically asserted that the facility of angioplasty is not available in the Department of Medicine, Dr. R.P.G.M.C., Kangra at Tanda, response thereto is conspicuous by absence.

9. Other than the aforesaid, attention has been invited to Rule 6 of the Medical Attendance Rules, which reads as follow:-

*“-6.(1) A Government servant shall be entitled, free of charge, to treatment –*

*(a) in such Government hospital at or near the place where he falls ill as can in the opinion of the authorised medical attendance provide the necessary and suitable treatment; or*

*(b) if there is no such hospital as is referred to in sub-clause (a) in such hospital other than a Government hospital at or near the place as can in the opinion of the authorised medical attendant, provide the necessary and suitable treatment.*

*(2) Where a Government servant is entitled under sub-rule(1), free of charge, to treatment in hospital, any amount paid him on account of such treatment shall, on production of a certificate in writing by the authorised medical attendant in this behalf, be reimbursed to him by the Central Government:*

*Provided that the controlling officer shall reject any claim if he is not satisfied with its genuineness on facts and circumstances of each case, after giving an opportunity to the claimant of being heard in the matter. While doing so, the controlling officer shall communicate to the claimant the reasons, in brief, for rejecting the claim and the claimant may submit an appeal to the Central Government within a period of forty-five days of the date of receipt of the order rejecting the claim."*

10. In so far as the applicability of the Central Civil Services (Medical Attendance) Rules, 1944, is concerned, the same has not been denied. However, it is categorically mentioned in the reply that when treatment is taken from other than Government and BSNL empaneled hospitals in emergency,

indoor medical claims are reimbursed as per Central Government Health Scheme (CGHS) rates. The rates, as mentioned in the reply, filed before the Central Administrative Tribunal, Chandigarh, have been reiterated.

11. Perusal of the above mentioned Rule says that it is open to the Government servant to be treated in a hospital other than Government Hospital, if such hospital as referred to in Sub-Clause(a) is not available, he can get treatment in a hospital other than Government Hospital at or near the place as can in the opinion of the authorized medical attendant, provide the necessary and suitable treatment. Therefore, there is no dispute qua the fact that the petitioner was entitled to be treated at Fortis Hospital, Kangra. Besides on a reading of Rule 6 as extracted above, there is no enabling provision for the Government to fix any ceiling/package deal.

12. The progressive evolution of the right to health and the positive duty of the State qua the same have been considered by the Apex Court in, ***Rachana Gangu v. Union of India, (2026) 6 SCC 317***. Relevant extract reads as below:-

*“24. The jurisprudence of this Court has progressively evolved from recognising the right to health as a facet of the right to life under Article 21 in **Parmanand Katara v. Union of India 1995 (3) SCC 248** to emphasising the positive duty of the State to act as provider, facilitator, and regulator in all aspects of healthcare. In **State of Punjab v. Mohinder Singh Chawla 1997 (2) SCC 83**, this Court had reiterated that: (SCC p. 85, para 4)*

*“4. ... It is now settled law that right to health is integral to the right to life. Government has a constitutional obligation to provide health facilities.”*

13. Again, in **State of Punjab v. Ram Lubhaya Bagga, 1998 (4) SCC 117**, this Court observed that: (SCC p. 130, para 27)

*“27. ... the State can neither urge nor say that it has no obligation to provide medical facility. If that were so, it would be ex facie violative of Article 21.”*

14. In the aforesaid backdrop, it would be appropriate to refer to the relevant portion of the Supreme Court judgment, in **State of Punjab v. Mohinder Singh Chawla, 1997 (2) SCC 83**, wherein the Supreme Court has held as under:-

*“if the Government Servant has suffered an ailment which requires treatment at a specialized approved*

*hospital and on reference whereat the government servant had undergone such treatment therein, it is but the duty of the State to bear the expenditure incurred by the Government servant”.*

15. For the aforesaid reasons, the writ petition is allowed, impugned judgment dated 16.05.2016 (Annexure P-4), passed by the Central Administrative Tribunal (Chandigarh) is quashed to the extent it denies complete reimbursement, the petitioner is held entitled to refund of the balance withheld amount, along with interest at the rate of 6% per annum since the medical reimbursement bills were submitted by the petitioner till realization and the tax deducted at source as ordered to be refunded by the Central Administrative Tribunal (Chandigarh) in the impugned judgment be also refunded to the petitioner if not refunded till date.

Pending miscellaneous application(s), if any, shall also stand disposed of.

**( G.S. Sandhawalia )**  
**Chief Justice**

**( Bipin Chander Negi )**  
**Judge**

**September 11, 2026** *(ks)*