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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ W.P.(C) 7540/2015

% ***Judgment dated 10th August, 2015***

UNION OF INDIA ..... Petitioner

Through : Mr. V.S.R. Krishna with Ms. Rashmi Malhotra & Ms. Priyanka Bharihoke, Advocates

versus

SMT. SHANTI DEVI & ORS. ..... Respondents

Through : *Nemo*

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

G.S.SISTANI, J (*ORAL*)

CM APPL 14470/2015

1. Exemption allowed subject to all just exceptions.

2. Application stands disposed of.

W.P.(C).7540 /2015

3. The petitioner is aggrieved by the order passed by the Central Administrative Tribunal (hereinafter referred to as "CAT") dated 11.12.2014. Respondent no.1 herein had approached the Tribunal seeking the following reliefs:

> "8.1 to allow the present OA and to grant to the applicant reimbursement of medical expenses of Rs.2,57,254/- incurred by him of the treatment together with interest @ 18%.

8.2 to grant any other or further appropriate relief as deemed fit and proper by this Tribunal as per facts and circumstances of the case.

8.3 to grant the cost of proceedings in favour of the applicant."

4. Respondent no.1 is the widow of Late Shri Chidda Singh Sharma who was working as a Office Superintendent in the Northern Railway. He retired on superannuation on 31.05.1992. Late Shri Chidda Singh Sharma had deposited Rs.19,524/- as one-time fee for getting medical assistance for himself and his wife. A medical card had been issued to him under the Railway Employees Liberalized Health Scheme(RELHS). On 04.10.2012, the respondent(widow of Shri Chidda Singh Sharma) who was already suffering from various ailments felt acute pain in her chest. His son immediately shifted her to the nearest hospital *i.e.* Shivam Hospital, Ghaziabad in the emergency. The medical treatment was given to respondent no.1. She accordingly submitted her bills along with all documents, including Emergency Certificate on 04.12.2012. The bills were forwarded to the concerned authority for reimbursement.

5. The objection of respondent no.2(petitioner herein) was that the respondent no.1 was not suffering from any life threatening disease and she did not follow the proper procedure while approaching the empanelled specialized hospitals capable of treating patients with respiratory/hypertension which were available at short distance. It is the case of the petitioner herein that the Tribunal did not consider the various grounds which were urged by the petitioner and thus, the order of the Tribunal should be set aside.

6. We have heard Mr. Krishna, learned counsel for the petitioner, considered his submissions and carefully examined the order which has been passed by the CAT which has allowed the OA and set aside the rejection letter dated 10.05.2013. As per the RELH Scheme, a beneficiary is entitled to

approach a private hospital for treatment in case of emergency condition. The Railway Board in the letter of 17.04.2007 has submitted detailed instances which can be considered as emergency conditions. The emergency conditions, as per the Board's letter of 31.01.2007, include the following:

> "(1) Acute Cardiac Conditions/Syndromes including Myocardial Infraction, Unstable Angina, Ventricular Arrhythmiss, Paroxysmal Supra-ventricular Tachycardia, Cardiac Tamponade, Acute Left Ventricular Failure/Severe congestive Cardiac Falure, Accelerated hypertension, Complete dissection.
> (2) Vascular Catastrophes including Acute limb ischemia, Rupture of aneurisms, medical and surgical shock and peripheral circulatory failure.
> (3) Cerebra-Vascular Accidents including Strokes, Neurological Emergencies including coma, carbora meningeal infections, convulsions, Acute paralysis, Acute visual loss.
> (4) Acute respiratory Emergencies indulging respiratory failure and decompensate lung disease.
> (5) Acute abdomen including acute obstetrical and gynecologist emergencies.
> (6) Life threatening injuries including Road traffic accidents, Head injuries, Multiple Injuries, Crush Injuries and Thermal Injuries.
> (7) Acute poisoning and Snake bite.
> (8) Acute endocrine emergencies including Diabetic Kato-acidosis.
> (9) Heat stroke and cold injuries of Life threatening nature.
> (10) Acute Renal Failure.
> (11) Severe infections, leading to life threatening sequel-including Septicemia, disseminated TB.
> (12) Any other condition, in which delay could result in loss of life or limb."

7. The issue which would thus, arise for consideration is whether the condition of respondent no.1 did not fall in any of the conditions as mentioned in the communication of 31.01.2007. The Emergency

Certificate furnished by Respondent no.1 dated 13.10.2012 issued by the Medical Superintendent, Shivam Hospital, Ghaziabad shows that the respondent was admitted in the hospital on 04.10.2012 at 12:10 p.m. She was diagnosed to have been suffering from respiratory distress with h/o hypertension, DM, PUO and chest infection. The Emergency Certificate dated 13.10.2012 which is not in dispute, in our view, and as correctly held by the Tribunal, would satisfy one of the conditions of the communication of 31.01.2007. The son of the respondent, in our view, was left with little choice but to rush his mother to the nearest hospital available. Another factor, which cannot be ignored, is the age of respondent no.1, who was 77 years old at the time of incident. It is no longer *res integra* that right to health is an integral right to life as has been held in the case of ***Vasu Dev Bhanot v. Union of India & Ors***., reported at 2008(4) SLR 114 by the Hon'ble High Court of Punjab & Haryana, as reproduced under:

> *"It is settled law that right to health is an integral to right to life. Government has constitutional obligation to provide the health facilities. If the Government servant or his dependant has suffered an ailment which requires emergency treatment, it is but the duty of the State to bear the expenditure incurred by the Government servant. Expenditure thus incurred by the Government servant, while in service or after retirement, requires to be reimbursed by the State to the employee."*

8. In ***Smt. Gouri Sengupta v. State of Assam***, reported at 2000(1) ATJ 582, the Hon'ble High Court at Gauhati held that denial of reimbursement of medical expenses on the ground the petitioner got the treatment in a private nursing home which is not recognized by the Government is not justified.
9. We find no infirmity in the order passed by the CAT. Accordingly, no ground made to interfere. The order of the CAT, if not complied with, be complied with within six weeks.
10. The writ petition is dismissed in above terms.

CM.APPL 14469/2015(stay)

11. Since the present writ petition has been dismissed, the application is also dismissed accordingly.

G.S.SISTANI, J

SANGITA DHINGRA SEHGAL, J

AUGUST 10, 2015
pst