

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Civil Writ Jurisdiction Case No.1377 of 2017**

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Ajit Kumar Mishra, Son of Late Prafulla Chandra Sharma, Resident of Village-Fatehpur, Nepa, Police Station Panchanpur, District Gaya

.... .... Petitioner/s

Versus

1. The Union of India, through Secretary Cum Director General, Department of Post, Dak Bhawan, Sansad Marg, New Delhi-110001.
2. The Chief Post Master General, Bihar, Circle, Patna 800001
3. The Director of Postal Services (HQ) Patna Office of the Chief P M G Bihar Circle, Patna 800001
4. The Assistant Director (Staff) Office of the Chief Post Master General, Bihar Circle, Patna 800001
5. The Senior Superintendent of Post Offices, Gaya Division, Gaya 823001
6. The Chief Medical Officer, Incharge Postal Dispensary Gaya 823001

.... .... Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Prabhat Kumar, Advocate  
For the Respondent/s : Mr. S.D Sanjay (Addl. Soc. Gen.)  
Mrs. Renuka Sharma, CGC

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**CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI**  
**and**  
**HONOURABLE JUSTICE SMT. NILU AGRAWAL**

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)

Date: 02-05-2017

The writ petitioner was the applicant before the Central Administrative Tribunal, Patna Bench, Patna. He sought certain limited relief, which is as under :

*“8A. Letter No. Accts/Med/A.K.Mishra/Gaya/2012 dated at Patna the 12.03.2013, issued by Asstt. Director, O/o Chief Postmaster General, Bihar Circle, Patna, as contained in Aneuxre-A/5, may be quashed and set aside.*

*B. The respondent authorities may be directed to*



*decide the claim of applicant for medical reimbursement of bills amounting to approx Rs. 3,79,819=00/- towards his treatment, at the earliest in accordance with law and to release the same to applicant along with admissible interest thereupon.*

*C. Any other relief/reliefs, as the applicant is entitled and Your Lordships may deem fit and proper in the ends of justice.”*

The Tribunal refused to give any relief to the petitioner, and, therefore, the writ application has now been filed seeking quashing of the order dated 04.10.2016, passed in OA 263/2014.

Petitioner is an employee of the Postal Department. He was posted at Gaya. In the mid-night of 16<sup>th</sup> of November, 2011 he suffered a major heart attack. With the help of his neighbours he contacted the Chief Medical Officer, Postal Dispensary, Gaya over telephone, who advised him to rush to Super Speciality Hospital, Apollo at Ranchi for treatment, where he underwent angioplasty surgery. It seems the petitioner was given the right advice because now he is alive but fighting a legal battle against the Department for settlement of his medical bill for the treatment he underwent. The petitioner along with the bill enclosed the outdoor ticket dated 18.11.2011 issued by the Chief Medical Officer Incharge, Postal



Dispensary, Gaya along with other supporting documents to prove the bona fide of the medical service which he had obtained from Apollo Hospital, Ranchi.

On submission of such a claim, the petitioner was directed to obtain a letter of consent of the Chief Medical Officer of the Postal Dispensary, Gaya. He submitted the details before the Chief Postmaster General, Bihar Circle, Patna. However, the claim was rejected vide letter dated 12.03.2013. Even the representation against the said rejection was of no avail. It is in this background that the writ application has been filed.

Before the Central Administrative Tribunal, the stand of the respondent Postal Department was that the employee is not covered under CGHS Rule. He is guided by Central Services (Medical Attendance) Rules. The medical bill of the petitioner was examined in the light of the said Rule since Gaya comes under non-CGHS area, therefore, the Medical Officer, who attend the Central Government servants posted at the station, ought not to have sent the patient to a private clinic or practitioner for any kind of medical treatment or advice unless it is absolutely essential owing to non-availability of the facility at a Government hospital and if it was necessitated, the consent of the Chief Administrative Medical Officer should be first obtained.



The other plea, which was taken, is that the Medical Officer, who had advised the petitioner over telephone for taking medical service from the Apollo Hospital, Ranchi, was also not empowered to do so. Such facility is only available for CGHS beneficiaries. At the most, the Chief Medical Officer could have referred the patient to a CGHS approved hospital, not to a unrecognized hospital.

The facts are not a matter of any dispute. The petitioner had major heart attack in the mid-night of 16.11.2011, cannot be a matter of argument. He did rush to Apollo Hospital, Ranchi where the timely angioplasty saved his life because that is the first treatment which is required to be given for a patient who has had a major heart attack and the cause thereof is a major blockage. Gaya may be one of the non-CGHS stations but when an employee has had a major life threatening medical condition he cannot be expected to run around and complete all the paper formalities before availing the immediate medical advice or else the rigmarole of paper work and taking permission would be life threatening at that emergent point of time because a patient with a major heart attack would not have survived by the time all the formalities is completed. We think the Chief Medical Officer Incharge of the dispensary was a wise man who gave the right



advice because approaching Ranchi with facilities at Apollo is much easier from the location at Gaya than trying to move down Patna. The time taken to move to Ranchi is much less because of excellent road conditions rather than the road and the traffic which prevails between Gaya and Patna.

There are provisions in circumstances to justify treatment in a private medical institution in cases of emergent kind. Such a provision has also been quoted by the Central Administrative Tribunal in the order itself. There cannot be a better case for an emergent situation than the present one, and, therefore, the objections, which have been taken by the respondent authorities for rejecting the claim of the petitioner and the same being sustained by the Central Administrative Tribunal, are not only arbitrary, violation of Article 14 but even Article 21 of the Constitution of India.

The impugned order dated 04.10.2016, passed by the Tribunal as well as the order dated 12.03.2013, passed by the office of the Chief Postmaster General, Bihar Circle, Patna are quashed.

A direction is given upon the respondent authorities that they will settle the medical claim and bill of the petitioner as per the CGHS rate and not as per the actual claim or bill raised by the Apollo Hospital, Ranchi since the billing is according to their



pricing and standards. The settlement of the medical bill must be done within a period of eight weeks from the date of production of a copy of this order.

The writ application is allowed with the above direction.

**(Ajay Kumar Tripathi, J)**

**(Nilu Agrawal, J)**

Rajesh/-

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