

IN THE HIGH COURT OF JHARKHAND AT RANCHI

W.P.(S) No. 5194 of 2016

Gobardhan Mahto

....

Petitioner

Vrs.

1. Union of India through General Manager, South Eastern Railway
2. CMS/RNC, South Eastern Railway, Ranchi Division, Ranchi
3. Additional CMS/RNC, South Eastern Railway, Ranchi Division, Ranchi
4. Senior DMO, Muri, South Eastern Railway, Muri

....

Respondents

.....

**CORAM: HON'BLE MR. JUSTICE APARESH KUMAR SINGH
HON'BLE MR. JUSTICE B. B. MANGALMURTI**

For the Petitioner : Mr. Aashish Kumar, Advocate

For the Respondent : Mr. Gautam Rakesh, Advocate

07/05.07.2017 Heard learned counsel for the parties.

Learned Central Administrative Tribunal Patna Bench at Ranchi has, by the impugned order dated 18th December, 2015 passed in O.A. No. 051/00101 of 2014, rejected the claim for reimbursement of infertility treatment of his wife. As the facts on record reveal, the applicant a IVth Grade employee working under the South Eastern Railway at Muri, got his wife treated for In Vitro Fertility treatment from 2nd February, 2009 to 13th February, 2010 at IVF & Infertility Research Centre, Tagore Hill, Morabadi, Ranchi. The treatment was successful in the way that the petitioner's wife conceived, however, both the twins were found to be suffering from blindness after their birth. Claim for reimbursement of Medical Bills was raised on 27th March, 2012 after about two years.

Admittedly, the petitioner never consulted the authorized Medical Officer of the Railways and there was no recommendation of the Medical Board either for undergoing such a treatment at a private infertility clinic. Respondent-Railways, therefore, rejected the claim by order dated 11th November, 2013. The relevant medical rules applicable under the medical manual at para 662 are quoted hereunder.

662. Reimbursement of in-vitro fertilization for treatment of sterility: *The method of conception by In Vitro fertilization techniques shall be subsidies by allowing reimbursement to a ceiling limit of 25% of the expenses incurred per cycle and limited up to a maximum number for three cycles. This subsidy will be available only to those employees whose cases have been referred to any hospital (including private hospitals and nurshing homes) where such facilities are available, on the specific recommendations of the Medical Board, with expert doctors as members, nominated by the Chief Medical Director of Zonal Railways. The acceptance of the recommendations of such Medical Board by the Chief Medical Director will be mandatory before such reference to Railway Board.*

As observed hereinabove, neither was the case of the

petitioner's wife placed before the Medical Board nor was there any such recommendation by the Chief Medical Director.

Petitioner has relied upon rule Para 647 of the Medical Manual to justify the claim for reimbursement. Para 647 reads as under:-

647. Reimbursement allowed if medical attendance was availed at the instance of Authorised Medical Officer:-

(1) A Railway employee obtaining medical attendance and/or treatment for himself or a member of his family or dependent relative should, under the provisions of Para 633 consult his Authorised Medical Officer first and proceed in accordance with his advice. In case of his failure to do so, his claim for reimbursement will not be entertained except as provided hereinafter. All claims for reimbursement should be scrutinised with a view to see that the Authorized Medical Officer or another Medical Officer who is either of equivalent rank or immediately junior in rank to health to his Authorized Medical Officer and attached to the same hospital/health unit as the Authorized Medical Officer, was consulted in the first instance.

Note – When a patient is referred to any Govt/recognised hospital by Authorised Medical Officer the referral covers treatment/investigation in that specific hospital only. If in the course of treatment in that hospital some investigations are required to be done at a place other than that hospital such referral should also be routed through the Authorised Medical Officer except those cases who are taking in those treatment in that hospital. Only those cases, (particularly those taking treatment as OPD patients in the referral hospitals), where it has been specifically certified by the Authorised Medical Officer that re-reference was done with his approval, will be considered for reimbursement.

(2) Consent of the Authorised Medical Officer is not necessary in the case of family members and dependent relatives when they go to one of the recognised hospitals. In such cases, the counter-signature on the bills or the receipts (where the bill system is not in vogue and receipts are issued for payments), by the Superintendent or other head of the hospital will be regarded as sufficient.”

This rule however does not apply to the petitioner's case as the specific rule i.e. Para 662 of the Medical Manual deals with the case of reimbursement for In Vitro fertilisation for treatment of sterility.

Learned tribunal also held that it was not a case of emergency treatment where prior approval could not have been taken. In such circumstances, rejection of the claim for reimbursement has been upheld by the learned Central Administrative Tribunal.

We do not find any error in the impugned order calling for interference under Article 226 of the Constitution of India.

Accordingly writ petition is dismissed.

(Aparesh Kumar Singh, J.)

(B.B.Mangalmurti, J.)