IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.22482 of 2017 (O&M)
Reserved on : December 14, 2018
Date of Decision: January 14, 2019

Ram Pal ...Petitioner

Versus

Central Administrative Tribunal and others ...Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV SHARMA,
HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

Present: Mr.Navkiran Singh, Advocate (amicus curie)
for the petitioner.

Mr.P.C. Goyal, Advocate
for respondents No.2 to 4.

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HARINDER SINGH SIDHU, J.

This writ petition has been filed impugning the order dated 24.3.2015 of the Central Administrative Tribunal, Chandigarh Bench, whereby the Original Application filed by the petitioner seeking release of medical reimbursement claim of Rs.5,78,825/- with interest in respect of Cochlear Implantation Surgery undergone by his daughter has been dismissed.

The petitioner is working as Station Master, Chhajli Station of the Ambala Division of Northern Railway. His daughter Ms. Harjit Kaur was deaf and dumb by birth. He contacted ADMO Dhuri on 18.7.2011 for

treatment of his daughter. She was referred to D.M.O.(Physician), Ambala for further treatment vide OPD Slip No.3869 dated 18.7.2011. On 19.7.2011, the Chief Medical Superintendent, Northern Railway, Ambala Cantt. referred the daughter of the petitioner to PGIMER, Chandigarh (for short "PGI") for further evaluation and management. The petitioner along with his daughter visited PGI on 26.7.2011 and continued to visit the Institute as advised after a gap of 15 days/ one month. On 27.9.2011, Dr. Naresh Panda, the Head of Department of ENT, PGI recommended the daughter of the petitioner for Cochlear Implantation Surgery. She was admitted in the PGI on 6.1.2012 and successfully underwent the surgery. She was discharged on 17.1.2012 and thereafter, visited PGI for follow up as advised. An expenditure of Rs.5,78,825/- was incurred by the petitioner on the treatment, which he arranged by pledging his house for Rs.6 lacs. He submitted the bill for reimbursement to Chief Medical Superintendent, Amabala Cantt. on 24.2.2012. Certain objections were raised. The petitioner removed those objections and re-submitted the bill on 27.12.2012. As required by the respondents the petitioner even got his daughter admitted in the Railway Hospital, Northern Railway, Ambala Cantt on 13.05.2013 to assess the result of the treatment given at the PGI. She appeared before the Board and was discharged on 15.05.2013 with a more than satisfactory report. The medical reimbursement claim having not been cleared, he sent legal notices. Finally vide order dated 01.07.2013 his claim was rejected. Hence the Original Application.

The case of the respondents was that reimbursement of medical expenses to its employees and their family members is governed by

Guidelines dated 31.12.2009 contained in the Indian Railways Medical Manual (IRMM). Para 667 of this IRMM, 2000 is relevant in this regard. The petitioner had not conformed to these guidelines. As per these guidelines before an employee is permitted for go in for Cochlear Implantation Surgery for which reimbursement is to be claimed, a proposal for surgery duly recommended by the Chief Medical Director and concurred by Associate Finance, should be sent to the Railway Board for their sanction. This was not done.

It was stated that as per clinical practice, Cochlear Implantation Surgery is usually performed on pre-lingually deaf children below five years of age. Beyond five years of age, the outcome of surgery declines, as the brain looses its natural plasticity. Speech development after surgery also becomes poor if it is performed after five years of age. Reference in this context was made to text book of ENT '*Scoutt Brown's Otorhinolaryngology and Head and Neck Surgery 7th edition Vol.1'*. It was contended that the daughter of the petitioner was 18 years old when surgery was performed on her and hence was not entitled to reimbursement. It was also the case of the respondents that as per the letter dated 31.12.2009 there were specified approved centres for Cochlear Implantation Surgery and this list did not include PGIMER, Chandigarh. Hence, also, the claim was not admissible.

It was further their case that the petitioner had not complied with the detailed 'Instructions regarding Reimbursement' which were clearly indicated on the reverse page of the Referral Slip. Detailing the violations it was stated that the patient was referred to PGI only once on 19.7.2011 for evaluation only and not for surgery, but she attended the PGI 7 days later on

26.7.2011. This was in violation of the Instruction I as per which the patient is required to contact the referred hospital on the same day in case of emergency and within three days in case of non-emergency. The patient was not admitted in PGI on 26.7.2011 and was asked to go for Pure Tone Audiometery (PTA) test. As per Instruction No.2 if a person is not admitted in the referral hospital and is advised some test, he is required to report back to Railway Medical Officer, failing which no reimbursement shall be given. The patient did not report back to the Railway Hospital along with the estimated cost of treatment in PGI and for further recommendation by the Railway Hospital, thereby violating this instruction. The patient was admitted in PGI on 6.1.2012 nearly six months after being initially referred to PGI on 19.7.2011. She underwent the Cochlear Implant Surgery on 11.1.2012 without being re-referred by the concerned Railway Doctor. She was discharged from PGI on 17.1.2012 and asked to come for follow up treatment. She thereby violated Instruction No.5, which required a patient admitted in the referred Hospital to report to the concerned doctor in the Railway Hospital after discharge.

The claim of the petitioner for medical reimbursement was rejected by the Competent Authority on 1.7.2013 with the observations "*Railway Board Guidelines and Referral Procedures do not allow for reimbursement of expense for Cochlear Implant carried by ignoring extant Instructions*".

The learned Tribunal dismissed the Original Application holding that from the material on record, it was clear that as per guidelines of Government of India/ Railway Board dated 31.12.2009, the daughter of the

petitioner being prelingually deaf was not eligible for undergoing Cochlear Implantation Surgery at the age of 18 years, because as per these guidelines in case of prelingually deaf children the surgery could be performed between the age of 1-10 years. For the post-lingually deaf children it would be performed upto the age of 21 years. The Tribunal further held that the petitioner had gone ahead with the surgery of his daughter in violation of the Instructions on the reverse page of the referral slip dated 19.7.2011. As per the Circular dated 31.12.2009, approval for the surgery had to be obtained from the Chief Medical Director/ Medical Board and surgery could only be conducted at the centres approved for Cochlear Implantation as per the circular dated 31.12.2009. PGIMER was not such an approved centre. Accordingly, the Original Application was dismissed.

We have heard Mr.Navkiran Singh, Amicus curiae and Mr.P.C.Goyal, Advocate appearing for respondents No.1 and 2 and are of the view that the petition deserves to be allowed.

The primary ground for rejection of the claim of the petitioner for reimbursement is that the Instructions regarding reimbursement contained on the reverse page of the Referral Slip dated 19.7.2011 had not been followed and further the guidelines regarding Cochlear Implantation contained in para 667 of the IRMM-200 dated 31.12.2009 have not been complied with.

The relevant instructions and guidelines said to have been violated are as follows:-

"(Reverse page of Referral Slip Ann.R-1)

Instructions regarding the reimbursement

1. It is essential for the patient to contact the referred

hospital on the same day in case of emergency and within three days in case of non-emergency.

2. *If you are not admitted in the referral hospital and are advised some investigation/ test, you should report back to the concerned Railway Medical Officer otherwise no reimbursement shall be given.*

   xxx xxx xxx

5. *If the patient is admitted in the Referred hospital, he should report to the concerned doctor in the Railway hospital after discharge. Reimbursement for the period (after) discharge will not be payable. If he is recalled to the hospital, even then he must be re-referred by the concerned Railway doctor.*

   xxx xxx xxx"

Guidelines :

"The following Guidelines regarding Cochlear Implantation for Railway Beneficiaries shall be followed while sending proposals seeking sanction of the Board.

1. *The proposals may be limited to those cases where the expected benefit to the patient is maximum.*

2. ***Selection Criteria for the patients are as under****:-*

A. *For pre-lingually deafened children.*

(i) Age group between 1 to 10 years. Patients using hearing aid and auditory training from age within 1 year may be considered at higher age also on case to case basis. The patients who are using hearing aid/sound inputs and auditory training before 1 years of age are technically considered pre-lingually and acquired post lingually deaf.

(ii) Profound bilateral sensorineural hearing loss.

(iii) No appreciable benefit from hearing aids after a 6 month trial with hearing aid, children who do not show

response to warble tones in the sound fileld or whose responses suggest only vibrotactile responses rather than auditory sensation.

(iv)Patients should not have:-

a. Any mental handicap, as per psychiatric evaluation.

b. Any contraindication to general anesthesia.

c. Active middle ear infection/ cholesteatoma.

d. Any cochlear malformation.

e. Tympanic membrane perforation (after 3 months of successful repair of Tympanic membrane perforation (Myringoplasty) these patients may be included.

f. Deafness due to lesion of acoustic nerve or central auditory Pathways.

(v) Parents of patients should be highly motivated and have realistic expectations from the Implant.

(vi)Special care should be taken as far as less educated, unaware or less informed cases are concerned as extra motivation and follow up is required and a declaration has to be signed by the employee.

B) For post-lingually deafened children/patients upto 21 years:-

(i) Profound bilateral sensorineural hearing loss.

(ii)No appreciable benefit from hearing aids being used previously.

(iii)Patient should not have:-

a) Any contraindication to general anesthesia.

b) Active middle ear infection/ cholesteatoma at time of surgery.

c) Tympanic membrane perforation (after 3 months of successful repair of Tympanic membrane perforation (Myringoplasty) these patients may be included.

d) Deafness due to lesion of acoustic nerve or central auditory pathways.

(iv)Patients/parents should have high motivations and realistic expectations from the implant.

3. Types of Implant :

Only multi channel implants should be recommended.

4. Centres :

Cochlear implant surgery should be allowed only in Government or private hospitals/ centers having proper postoperative rehabilitation. These centers should have well trained speech therapist relating to cochlear implant.

The details of the private/Government Railway Hospitals. Centers where Cochlear Implantation is undertaken with facilities for post operative rehabilitation are as under:-

State	***City***	***S.No.***	***Hospital Name***
Tamil Nadu	*Chennai*	*1*	*Madras ENT Research Foundation (P) Ltd. 1, 1 Cross Street, Off.11 Main Road, Raja Ammalaipuram, Chennai-600028*
		2	*KKR ENT Hospital & Research Institute (P) Ltd., 274(827), Poonamallee High Road, Chennai - 600010*
Delhi	*Delhi*	*1*	*All India Insititute of Medical Sciences*
		2	*Gangaram Hospital, Rajinder Nagar, New Delhi*
		3	*Batra Hospital*
West Bengal	*Calcutta*	*1*	*Peerless Hospital & B.K.Roy Research Centre, 360, Panchasayar, Kolkata-700094*
		2	*Vivekananda Institute of Medical Sciences, 99, Sarat Bose Road, Kolkata-700026*
		3	*Calcutta Medical College & Hospital, 88, College St.Kolkata-700073*
Andra Pradesh	*Hyderabad*	*1*	*Apolo Hospital Jubilee Hills, Hyderabad-500033*

Uttar Pradesh	*Lucknow*	*1*	*Sanjay Gandhi Post Graduate Institute, Lucknow*

5. ***Clinical indication and investigations required :-***

The proposal should be accompanied by complete clinical details of the patient along with the reports of the following investigations:-

(a) Radiological – HRCT Scan/ MRI of Temporal Bones – Focussing Cochlea.

(b) Audiological – Pre tone audiometry, Speech Audiogram (aided and unaided), Speech Reception Threshold (SRT), Lip Reading ability.

(c) Electrophysiological: auditory brainstem evoked responses, promontory stimulation text, vestibular function test.

(d) Psychiatric evaluation report."

It is relevant to note that the violations pointed out are primarily procedural viz, in not reporting back to the Railway Hospital after attending the Referral Hospital, not seeking prior approval of the Chief Medical Director, Railway Board before undergoing surgery. There is also a violation of the Guideline dealing with the selection Criteria for the patients as per which prelingually deafened children between the ages of 1 to 10 years may be recommended. Also the surgery was got done from a non listed / non-approved Centre.

The Courts while dealing with medical reimbursement claims have repeatedly stressed that the applicable Instructions have to be liberally construed in favour of the beneficiaries.

In **Darshan Singh Rai v. Union of India , (P&H)(DB) 2008(2) S.C.T. 242**, Division Bench of this Court held that all the rules and regulations regarding medical reimbursement are to be considered in favour of the Government employee liberally and to his benefit. The State cannot be permitted to have an iron heart in such matters. It was observed as under:

> *"7. The State cannot refuse reimbursement of the expenditure incurred by a Government servant for it is the bonafide duty of the Government to pay for the beneficial act of an employee as it is Welfare State. All the rules and regulations are to be considered in favour of the Government employee liberally and to his benefit. The State cannot be permitted to have an iron heart in such matters. It is not the plea of the respondents that the petitioner has not incurred the expenditure on his treatment. It is being noticed by this Court that quite often writ petitions are filed to obtain redress in the matter of reimbursement of medical expenses particularly by those who have retired from service, which is a sad commentary on the working style of the concerned departments and particularly of the head of those departments who must own responsibility for the indifference and delays in this regard."*

In **Dr. Harinder Pal Singh v. State of Punjab 2014 (3) S.C.T. 483** it was held held that the medical reimbursement policies are to be interpreted liberally and that reimbursement cannot be denied on the ground that the petitioner had not gone for treatment to the approved hospital but had chosen to get himself treated abroad. The respondents were directed to process the claim made by the petitioner as per rates prescribed by Director, Health and Family Welfare, Punjab.

> "*15. The relationship of a doctor and a patient is a matter of confidence and trust. Any patient would like to go to the best doctor available. Even if the petitioner had not gone to any Government or any of the approved hospitals and had chosen to get himself treated from an hospital abroad, the liberty cannot be left with the Head of the Department to refuse reimbursement, once it is found that the patient had taken treatment. It is not that only medicines are to be taken orally. The rejection of the claim*

on these hypertechnical grounds, is totally arbitrary. The beneficial policies cannot be interpreted or kept in water tight compartment. These are to be interpreted liberally considering the facts and circumstances of the case. The fact that the petitioner had been operated upon in Prince Wales Hospital, Australia for his disease is not in dispute. Once that is so, the entitlement of the petitioner to reimbursement of the expenses incurred by him in terms of the rates prescribed by Director, Health and Family Welfare, Punjab cannot be denied."

Similarly, the Rajasthan High Court in **Jawahar Lal Bohra v. State of Rajasthan (Rajasthan) 2014(3) S.C.T. 242** held that medical attendance Rules providing for reimbursement of the medical expenses to the Government servant and retired pensioners, was a beneficial and welfare legislation meant for the welfare of the Government servants and, therefore, a liberal, sympathetic and objective interpretation for the applicability of these Rules, has to be made by the Courts. The Court noted that specifying a very limited of number of hospitals at a few places only where treatment could be availed of could only be construed as making the applicability of the said Rules ineffective. The Court held that the petitioner who had undertaken treatment from a hospital not specified was entitled to reimbursement at the rate applicable in the recognised hospital of the State Government

The relevant observations of the Court are as under:

"13. The recognition given to only 3 hospitals of Delhi for the purposes of Rule 6, while specifying 11 hospitals for Rule 7 at Delhi and Mumbai, also does not have any logical reasoning or rational nexus behind it. If the contingency of taking the

treatment outside the State of Rajasthan, for the reasons beyond the control of the Government servant or in any emergency is duly recognised as a fact entitling the Government servant for such reimbursement, the specification of different set of hospitals for two different rules, and that too to a very limited extent of number of hospitals at a few places only viz. Delhi or Mumbai, can only be construed as making the applicability of the said Rules ineffective even though the purpose of these Rules is to make the reimbursement of expenses subject to fulfilment of other conditions. For this reason on a harmonious construction of both these Rules 6 & 7 of the Rules of 1970, this Court may have to even invoke and apply even the Appendix-11, list of hospitals, for the reading the same with the Rule 6 of 1970 Rules, and not restricting the same for Rule 7 only. Even though, the petitioner took his treatment in the Asian Heart Institute, Mumbai, and not in the Bombay Hospital, Bombay, which is included in the Appendix-11 of the Rules of 1970, which is to be read with both Rule 6 & 7, the purpose of the aforesaid harmonious construction is to allow the reimbursement of medical expenses to the petitioner at least to the extent of the rates applicable in the recognised hospital of the State Government at Mumbai, namely, Bombay Hospital, if not, the actual expenses incurred by him in the Asian Heart Institute, Mumbai. Not doing so would obviously render the petitioner remediless and without any reimbursement in the present case, which will defeat the purpose and objective of the 1970 Rules.

18. The contention raised by the learned counsel for the respondent that since the Asian Heart Institute, Mumbai was not the recognised hospital by the State Government, and therefore, the claim of the petitioner could not be accepted, is also a contention not worthy of acceptance. Firstly, as aforesaid the limited number of hospitals outside the State of

Rajasthan, which have been included in the 1970 Rules, makes it a miserably narrow list of such speciality hospitals, which can provide the treatment in complicated cases. Prescribing the hospitals of only at two stations of Delhi and Mumbai also does not seem to have any rational nexus. The point of time at which the list of these hospitals were prescribed also goes back to many years before the treatment in the present case was taken by the petitioner or may be taken by other similarly situated persons later on. It is true that 1970 Rules have since been replaced by the State Government by another set of Medical Attendance Rules in the year 2008 and then again by the another set of new Rules in the year 2013 but the fact remains that the present case is covered by the Rules of 1970 which held the field up-to the year 2008 and in the present case, the petitioner having undergone that treatment for his heart ailment in the year 2004 will be admittedly covered by the Rules of 1970. Therefore, if the aforesaid list of Hospitals for Rules 6 or 7 of the 1970 Rules was to restrict the claims of the Government Servants or the retired Government servants/pensioners, the very purpose of making of provisions for the reimbursement of such medical expenses under the 1970 Rules will be frustrated, if the State was to be allowed to negate such claims in all other cases. Such cannot be the intention of the medical attendance rules in question. Therefore, on the principles of the harmonious construction in the present case, the petitioner is held entitled to the reimbursement of his medical expenses incurred by him.

19. Apparently and avowedly, these medical attendance Rules providing for reimbursement of the medical expenses to the Government servant and retired pensioners, is a beneficial and welfare legislation meant for the welfare of the Government servants and, therefore, a liberal, sympathetic and objective interpretation for the applicability of these Rules, has

to be made by the Courts and not a pedantic or narrow approach of the matter would subserve the interest of justice."

Hon'ble the Supreme Court in **Shiva Kant Jha Vs. Union of India AIR 2018 SC 1975** considering this question has held that a Government employee during his life time or after retirement is entitled to get the benefit of medical facilities and that no fetters can be placed on his rights. It was further held that the claim of reimbursement cannot be rejected solely on the ground that the Hospital where he was treated was not included in the Government Order, It was held that in such a case the authorities are bound to ensure as to whether the claimant had actually taken treatment and the factum of treatment is supported by records duly certified by Doctors/Hospitals concerned. Once that is established, the claim cannot be denied on technical grounds.

The relevant observations are as under:

"13. It is a settled legal position that the Government employee during his life time or after his retirement is entitled to get the benefit of the medical facilities and no fetters can be placed on his rights. It is acceptable to common sense, that ultimate decision as to how a patient should be treated vests only with the Doctor, who is well versed and expert both on academic qualification and experience gained. Very little scope is left to the patient or his relative to decide as to the manner in which the ailment should be treated. Speciality Hospitals are established for treatment of specified ailments and services of Doctors specialized in a discipline are availed by patients only to ensure proper, required and safe treatment. Can it be said that taking treatment in Speciality Hospital by itself would

deprive a person to claim reimbursement solely on the ground that the said Hospital is not included in the Government Order. The right to medical claim cannot be denied merely because the name of the hospital is not included in the Government Order. The real test must be the factum of treatment. Before any medical claim is honoured, the authorities are bound to ensure as to whether the claimant had actually taken treatment and the factum of treatment is supported by records duly certified by Doctors/Hospitals concerned. Once, it is established, the claim cannot be denied on technical grounds. Clearly, in the present case, by taking a very inhuman approach, the officials of the CGHS have denied the grant of medical reimbursement in full to the petitioner forcing him to approach this Court."

14. This is hardly a satisfactory state of affairs. The relevant authorities are required to be more responsive and cannot in a mechanical manner deprive an employee of his legitimate reimbursement. The Central Government Health Scheme (CGHS) was propounded with a purpose of providing health facility scheme to the central government employees so that they are not left without medical care after retirement. It was in furtherance of the object of a welfare State, which must provide for such medical care that the scheme was brought in force. In the facts of the present case, it cannot be denied that the writ petitioner was admitted in the above said hospitals in emergency conditions. Moreover, the law does not require that prior permission has to be taken in such situation where the survival of the person is the prime consideration. The doctors did his operation and had implanted CRT-D device and have done so as one essential and timely. Though it is the claim of the respondent-State that the rates were exorbitant whereas the rates charged for such facility shall be only at the CGHS rates and that too after following a proper procedure given in the Circulars issued on time to time by the concerned Ministry, it

also cannot be denied that the petitioner was taken to hospital under emergency conditions for survival of his life which requirement was above the sanctions and treatment in empanelled hospitals.

15. In the present view of the matter, we are of the considered opinion that the CGHS is responsible for taking care of healthcare needs and well being of the central government employees and pensioners. In the facts and circumstances of the case, we are of opinion that the treatment of the petitioner in non-empanelled hospital was genuine because there was no option left with him at the relevant time. We, therefore, direct the respondent-State to pay the balance amount of L 4,99,555/- to the writ petitioner. We also make it clear that the said decision is confined to this case only."

The daughter of the petitioner was deaf and dumb since childhood. On 18.07.2011 she was refereed by the the Chief Medical Superintendent, Northern Railway, Ambala Cantt. to the PGI for further evaluation and Management. Thereafter she visited the PGI a number of times. On 27.9.2011, Dr. Naresh Panda, the Head of Department of ENT, PGI recommended the daughter of the petitioner for Cochlear Implantation Surgery.

His recommendation is reproduced as under:-

"Department of Otolaryngology and Head & Neck surgery
Post Graduate Institute of Medical Education and Research
Chandigarh-160012 (India)

Dr.Naresh K.Panda
MS DNB, FICS, FRCS
Professor & Head

Ph.(O)2756760 (OPD) 2756957
Fax 91-172-2744401, 2744450
Email:npanda59@yahoo.co.in
Website: http://pgimer.nic.in

No.ENT/11/1476
Dated: 27.9.11

TO WHOM IT MAY CONCERN

It is hereby certified that Ms. Harjit Kaur, 18 years, female child, D/o Rampal, CR No.2011-0327-6644 resident of Ward No.10, Shaheed Bhagat Singh Colony, Lehragaga, Tehsil Lehragaga, District Sangrur-1480031 (Mobile No.93505-55713/ 84276-96815) has been diagnosed to have bilatral severe to profound hearing loss on both the ears. He is a suitable candidate for Cochlear Implantation. Cochlear implantation is sophisticated ear surgery, which is done in order to regain hearing capability and is being done only in a few centers in Asia.

The approximate cost of the Implant would be Rs.5,12,000/- imported from Australia. Cochlear Implant is a sophisticated ear surgery, which is done to restore hearing capability and is being done only in few centres in Asia.

The approximate cost of surgery including hospitalization and post implant rehabilitation would be around Rs.50,000/- (fifty thousands). At present, the nucleus Cochleae Implant is imported from Australia and no Indian substitute is available. The product has been approved by FDA(USA) and feedback reports are quite encouraging. This implant accelerates all round rehabilitation of the patient and would enable her to hear sound like normal persons and would enhance his speech development. World's best facilities with regard to infrastructure as well as competence are prevalent at this institute for performing this surgery.

It is also certified that Nucleus 24 cochlear implant is essential requirement of the cochlear implant surgery and forms its part.

(Dr.Naresh Panda)
MS. DNB, FICS, FRCS
Head, Department of ENT
PGIMER, Chandigarh"

She was admitted in the PGI on 6.1.2012 and successfully underwent the surgery. She was discharged on 17.1.2012 and thereafter, visited PGI for follow up as advised. An expenditure of Rs.5,78,825/- was incurred by the petitioner on the treatment. After the surgery, as directed by the Railway Authorities she got admitted in the Railway Hospital, Northern Railway, Ambala Cantt. to appear before the Medical Board for assessing her response to the treatment. She was reported to have made more than satisfactory progress.

The petitioner along with the supplementary rejoinder filed in the Original Application has reproduced a letter dated 27.12.2012 recommending his case on compassionate grounds. This letter is reproduced as under:-

> *"1. A genuine medically deserving case of cochlear implant, who has got operated in a recognized tertiary level hospital of excellence (PGI/Chandigarh), after due investigations and after all clinical criteria for the operation were fulfilled. The operation/ implant has been successfully placed at PGI/ Chandigarh and where initially the patient a girl child (in a family of three daughters and two sons in a relatively moderate income station masters family) was initially seen to be having total hearing loss bilaterally, now, after unilateral cochlear implant in the right ear, has hearing with special braining now taking place at the patients own expense also at Chandigarh.*
>
> *2. The patient has become a victim of rules not properly being followed because of ignorance at the patients level. He has however been duly referred as an OPD patient to PGI Chandigarh for further management and in a cascading sequence of events has undergone a needful surgery of*

unilateral cochlear implant for congenital bilateral sensorial deficit. --a condition for which Railway Board Circular No.2007/H/6-1/Policy(1) dated 31.12.2009, authorises payment of Rs. 5.70 Lakhs for a total cost including, cost of implant, consumables surgery charges & Post implant speech therapy (circular attached at - SN.)

3. In view of the peculiar circumstances of the case, especially a girl child in a poor family and with success in the operation and incapability of the individual for following the laid down procedure due to sheer ignorance of rules by the individual a lenient view may be taken of the above case and reimbursement of Rs.565213/- only (to cover all costs of the implant) be permitted to him. The speech therapy is going on at the patient's own costs.

4. Initially, the girl could not hear the calling bell sound even as claimed by the parents, but now on seeing the patient and making her read from a nursery book her hearing and speech both seem to be improving with training which is going on at PGI/ Chandigarh. (Relevant papers attached at S.No..)

5. Case is strongly recommended on compassionate grounds."

The Authorised Railway Medical Officer had issued a certificate dated 23.10.2012 certifying that the daughter of the petitioner had undergone surgery at the PGI/ Chandigarh and stated that her treatment/ admission in PGI Chandigarh is considered justified. The same is reproduced below:

"Emergency Certificate

This is to certify that Smt./Sh./Km Harjit Kaur son/wife/daughter of Sh.Ram Pal Designation Station Master Station Sangrur was admitted/ took treatment w.e.f. 06.01.2012 to 17.1.2012 in PGI/Chandigarh non recognized hospital in

emergency which has been verified by undersigned. I have carefully gone through the hospital documents/ records related to treatment/ admission/ discharge of the patient in the non-recognized hospital.

Based on these documents and in the light of Railway Board's Policy letter no. (x x x x not legible) emergency in treatment admission of Smt./Km Harjit Kaur in PGI/ Chandigarh hospital is considered justified.

Date: *sd/-*
Place: *(Signature of Authorized Railway Medical Officer)*
Name and Designation in Block letter
(Seal and Stamp of issuing officer)
23.10.2012"

In the light of the aforesaid, it is clear that the daughter of the petitioner had undergone surgery at the PGI, the said surgery was essential, it has resulted in substantial improvement in her condition. Thus, the action of the respondents in denying her medical reimbursement claim was illegal and unjustified.

Accordingly, this petition is allowed. The order of the learned Central Administrative Tribunal is set aside.

The respondents are directed to process the reimbursement claim of the petitioner and release the amount to him within a period of six weeks from today.

(RAJIV SHARMA)
JUDGE

(HARINDER SINGH SIDHU)
JUDGE

January 14 , 2019
gian/ Atul

Whether Speaking / Reasoned	Yes
Whether Reportable	Yes / No