

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16440 of 2018

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Sarwat Jahan Fatema, Wife of Late Md. Nasim Ahmed, Address- 305, Sharf Apartment, Frazer Road, Opposite- Doordarshan, Patna.

... .. Petitioner/s

Versus

1. The Union of India.
2. The Secretary, Department of Personnel and Training, Government of India, New Delhi.
3. The Secretary, Department of Information and Broad Casting, Government of India, New Delhi.
4. The Director General, Prasar Bharti.
5. The Director General, Doordarshan Bhawan, Copernicus Marg, New Delhi.
6. The DDA (S-IV) Officer of Director General, Doordarshan, New Delhi.
7. The Deputy Director, Doordarshan Kendra, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Shashi Shekhar Tiwari, Advocate Mr. Kanhaiya Pandey, Advocate
For U.O.I.	:	Mr. Sujeet Kumar Sinha, C.G.C.

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 03-11-2022

Heard learned counsels for the parties.

2. Respondents have filed I.A. No. 02 of 2022 to recall the order dated 13.10.2022 in so far as depositing Rs. One Lakh subject to outcome of the L.P.A., but the same has not been deposited for the reasons that order dated 13.10.2022 was not uploaded within one week. Therefore, I.A. No. 02 of 2022 application is filed for recalling the order dated 13.10.2022. Along with the I.A., certain documents have been furnished



relating to correspondences with the CGHS authorities.

Annexure-R-5 of I.A. No. 02 of 2022 dated 12.10.2022 reads as under:

"OFFICE MEMORANDUM

Subject:- Full reimbursement of medical claim in respect of treatment of Late Shri Naseem Ahmad, Ex-SEA, DDK Patna- regarding.

The undersigned is directed to refer to Directorate General of Doordarshan's communication No. 3/7/2016-S-IV-2757 dated 14.09.2022 on the above mentioned subject and to say that the case for full reimbursement of Medical Claim in respect of treatment of Late Shri Naseem Ahmad will be considered by the High Powered Committee meeting scheduled to be held on 17 October, 2022 at 03:30 PM in terms of this Ministry's OM dated 22.05.2018.

2. Moreover, the Directorate General of Doordarshan is requested to specify what surgical procedure was done and as also provide the following documents which are crucial for coming to a conclusion in the meeting:-

(i) Investigating Reports with image

(ii) Hospital Bills

(iii) Death Summary

(iv) Discharge Certificate

(v) Daily case sheet

3. This issues with the approval of the Competent Authority"

3. Learned counsel for the respondents submitted that petitioner had submitted hospital bills, death summary, discharge summary and daily case sheet. However, the petitioner has not submitted investigation report with image. On the other hand, CGHS authorities in paragraph-2 of the aforesaid order dated 12.10.2022 requested for five documents.



Except first document no.1, investigation report with image, is not available with the respondent-Doordarshan and so also the petitioner has not provided. The official respondents cannot insist for production of documents after lapse of eight years, when the petitioner has already furnished hospital bills, death summary, discharge certificate and other material information in the year 2014 and the fact that the official respondents had slept over the matter and they cannot insist for production of documents in the year 2022. Therefore, I.A. No. 2 of 2022 stands rejected in so far as the recalling of order dated 13.10.2022 without waiting for uploading for the present order. The concerned authority- Doordarshan department are hereby directed to pay Rs. One lakh in terms of the order dated 13.10.2022 within two weeks.

4. At this stage, learned counsel for the respondent insisted for disposal of the main matter, itself. Hence main matter is taken up for disposal.

5. In the instant petition, petitioner (wife of the deceased employee- Nasim Ahmed) has assailed the order of the Tribunal dated 18.01.2018/19.01.2018 passed in O.A. No. 050/00077/2016.

6. Question for consideration in the present petition is



whether deceased employee- Nasim Ahmed, who was an office staff of Doordarshan Kendra, Patna was hospitalized during the period from 20.02.2014 to 06.03.2014 (the date on which he died). Petitioner (wife of the deceased employee) submitted application along with the documents for the purposes of medical reimbursement to the extent of a sum of Rs. 6,02,786/- whereas the respondents have paid only as sum of Rs. 2,30,742/-.

7. Feeling aggrieved by the action of the respondents, petitioner invoked remedy under Section 19 of the Administrative Tribunal Act, 1985 before the Central Administrative Tribunal, Patna Bench, Patna in filing Original Application No. 050/00077/2016 and it was decided against the petitioner on 18.01.2018/19.01.2018, hence the present petition.

8. This court on 28.01.2020 passed following orders:-

“Heard learned counsel for the petitioner and learnedcounsel for the Union of India.

The husband of the petitioner was an employee of the Union of India working in Doordarshan Kendra, Patna. While the husband of the petitioner was on duty, he fell down from the stair and became unconscious, shifted to Ruban Hospital, where it was found that he received brain hemorrhage, whereafter, he was shifted to Udayan Hospital, Patna, but he died in course of treatment. The Hospital has raised the bill of Rs.6,12,314/-, whereas Rs.2,30,742/- has been reimbursed. The claim has been allowed by the Tribunal and given direction for payment of rest amount.

In first stint, the Court has asked the petitioner that the respondents have adjusted the amount as per the CGHS approved rates but, learned counsel for the petitioner has placed reliance on the decision rendered



in the case of Shiv Kant Jha vs. Union of India reported in 2018(2) PLJR (S.C.) 305, wherein the Court has taken a view that if a person has been treated in a specialized hospital then, the amount raised by the hospital should be paid taking into account the human consideration.

In the present case, the husband of the petitioner has received brain hemorrhage while performing his duties, whereafter he was shifted to Ruban Hospital, Patna, and then shifted to Udayan Hospital, Patna, where he died in course of treatment.

Mr. S.D. Sanjay, learned Additional Solicitor General of India, submits that he will take instructions from the Government and will give reply with regard to the aforesaid decision given by the Hon'ble Supreme Court.

In such view of the matter, put up this case on 10.02.2020 under the same heading at the top of the list."

Further on 14.07.2022, following order was passed:-

"Heard learned counsels for the parties.

Question for consideration in the present petition is whether petitioner - legal heir of the deceased employee Late Md. Nasim Ahmed who was working as Sr. Engineer Assistant at Doordarshan Kendra, Patna is entitled to medical reimbursement as claimed by legal heir of the deceased or not?

Deceased employee had taken treatment in a private hospital. Accordingly, medical reimbursement was claimed with reference to the payment made to the private hospital, however, the respondents have taken a decision that petitioner is not entitled to actual payments made towards medical expenses read with the treatment obtained by deceased Md. Nasim Ahmed and petitioner is entitled to medical reimbursement at the rate of C.G.H.S. scheme or order.

Perusal of the records, it is evident that office of the Director General, Doordarshan, New Delhi have not appreciated the reason for taking treatment by the deceased employee in a private hospital. It was an emergency case. According to the learned counsel for the petitioner it has come on record, therefore, whatever actual payments made to the private hospital is required to be reimbursed for which the competent authority is required to take a decision as was it an emergency situation



which warranted the deceased employee to take treatment in private hospital or not? Such a finding is not forthcoming in the documents, therefore, Director General, Doordarshan, New Delhi or competent authority is hereby directed to take a decision whether deceased employee was compelled to take treatment in a private hospital on account of emergency or not? Further examine as to medical facility in respect of deceased employee availed in private hospital was available with Government medical hospital at the relevant point of time or not? Such a decision shall be taken within a period of four weeks and place it on record.

Matter relates to medical reimbursement and it is pending consideration for the last eight years, therefore, it is made clear that no further time would be granted to the respondents.

Re-list this matter on 25.08.2022.”

And so also on 25.08.2022, 01.09.2022 and 15.09.2022. Thereafter, on 13.10.2022 further directed the Doordarshan department to pay a sum of Rs. One lakh to the petitioner subject to outcome of the present L.P.A. but it was not complied. On the other hand, I.A. for recalling the order dated 13.10.2022 has been filed and we have rejected the same today.

9. Insistence of certain documents by the CGHS vide their communication dated 12.10.2022 (Annexure-R/5 to I.A. No. 02 of 2022) that Doordarshan department have to provide five documents as narrated in the OM dated 12.10.2022. Today, learned counsel for the Doordarshan department submitted that except first document namely investigation report with image rest of the documents are with the Doordarshan department and it has been transmitted to CGHS authorities. Despite providing



the aforesaid information, Office Memorandum dated 12.10.2022 on behalf of the CGHS authorities is without application of mind. Pursuant to the communication of the CGHS, the Deputy Director, Doordarshan informed the petitioner to submit original documents as demanded by CGHS Authorities. Once the Doordarshan department were in possession of document Nos. 2 to 5 what remains is document No. 1. Even to that extent there is lack of application of mind on behalf of the Doordarshan department vide their communication dated 19.09.2022 to the petitioner demanding for original five documents. It is to be noted that such a correspondence is being made by the Doordarshan and by the CGHS after lapse of eight years, the same cannot be appreciated for the reasons that petitioner may not be in possession of Investigation Report including Imaging Reports. Had the Doordarshan department insisted for such documents after obtaining necessary opinion from the CGHS authorities in the year 2014 in that event petitioner could have lay her hand to the concerned hospital and authority in providing Investigation Reports including Imaging Report. Therefore, at this distance of time demanding investigation reports including Imaging Report as demanded by the CGHS authorities to Doordarshan department cannot be



appreciated. Accordingly, whatever the correspondences made by the Doordarshan department and CGHS would not come in the way of settling the petitioner's actual medical bills and its amount shall be released by the Doordarshan department minus whatever amount paid to the petitioner during pendency of the litigation. The same shall be calculated and disbursed in favour of the petitioner within a period of two months from today, failing which petitioner is entitled to interest @ 6% per annum along with litigation cost and it is quantified @ Rs. 50,000/-. The cost of Rs. 50,000/- is imposed on the respondent-Doordarshan department for the reasons that they had slept over the matter in respect of medical reimbursement claim which was demanded in the year 2014. No doubt they have paid a sum of Rs. 2,30,742/-. At the same time, it was bounden duty of the Doordarshan department that if they are doubtful with reference to the actual claimed by the petitioner in terms of the Government Circular, Doordarshan department should have resorted to seek necessary opinion from the CGHS authorities as to verify whether the medical reimbursement claim of the petitioner was genuine or not? On the other hand, Doordarshan department have opened their eyes to forward the papers to the CGHS authorities only as and when this Court made various



observations in the present case in the year 2022. In other words, for the first time, Doordarshan department proceeded to have correspondence with CGHS authorities after lapse of eight years from the date of medical reimbursement claim/ application filed on behalf of the petitioner.

10. Accordingly, order of the Tribunal dated 18.01.2018/19.01.2018 passed in O.A. No. 050/00077/2016 is set aside. The present writ petition stands allowed.

(P. B. Bajanthri, J)

(Purnendu Singh, J)

manish/rakhi

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	
Transmission Date	

