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* IN THE HIGH COURT OF DELHI AT NEW DELHI

% Decision delivered on: 03.09.2024+ W.P.(C) 10418/2024

BHARAT SANCHAR NIGAM LTD. & ORS.Petitioners

Through: Mr. Pradeep Kumar Mathur with Mr.
Chiranjeev Johri, Advocates.

versus

PARDEEP SINGH & ANR.Respondents

Through: Mr. Mukul Singh, CGSC with Mr.
Aakash Pathak, Government Pleader
and Ms. Ira Singh, Advocates for R-2.

CORAM:

HON'BLE MR. JUSTICE SURESH KUMAR KAIT

HON'BLE MR. JUSTICE GIRISH KATHPALIA

J U D G M E N T (O R A L)W.P.(C) 10418/2024

1. By way of the present writ petition filed under Articles 226 & 227 of the Constitution of India, the petitioners have sought the following reliefs:

“(a) issue an appropriate writ, order or direction in the nature of Mandamus/Certiorari on the impugned order dated 13.03.2024 passed by the Ld. Central Administrative Tribunal in O.A. No. 303 of 2019; and

(b) grant ex-parte ad interim stay on the operation of order dated 13.03.2024 passed by Ld. Central Administrative Tribunal in O.A. No. 303 of 2019; and



*(c) pass any other or further orders as this Hon'ble Court may deem fit and proper in the circumstances of the case; and
(d) Award cost of the litigation to the petitioner."*

2. The present petition has been filed on the ground that the learned Central Administrative Tribunal ("Tribunal") has arbitrarily and against the mandate of law of the land, laid down by various judicial forums, granted reimbursement of medical claim on actual basis to the tune of Rs.13,29,123/- with 7% interest from the date of submission of medical bills till the date of payment without considering the fact that the respondent no.1 has already been paid Rs.27,16,572/- in accordance with the CGHS rates complying the mandate of the medical reimbursement policy.

3. Learned counsel appearing on behalf of the petitioners submits that the learned Tribunal has unnecessarily intervened in the policy laid down for reimbursement under CGHS scheme by Ministry of Health, as there are dictum of the different courts that intervention in policy matter is not legally permissible and courts ought not to intervene in the policy matter unless the same is perverse. The medical reimbursement policy is universal and applicable to all BSNL employees uniformly. Any order favouring the respondent *de hors* the policy is violative of the Constitutional Principles enshrined in the Article 14 and 21 of the Constitution.

4. It is further submitted that the policy of medical reimbursement is similar to all the employees and is powered and determined under the BSNL



MRS Policy which is in force since 2003 and further as per the OM dated 17.08.2010, the learned Tribunal has arbitrarily overlooked and failed to consider the said policy and OM.

5. Learned counsel for the petitioners, to buttress his submissions, has relied upon the case of ***Sher Singh & Ors. vs. Union of India & Ors.***, (1995) 6 SCC 515, wherein hon'ble Supreme Court has observed as under:

“As a matter of fact the courts would be slow in interfering with matters of government policy except where it is shown that the decision is unfair, malafide or contrary to any statutory directions”

6. In view of the above, counsel for the petitioners seeks to set aside the impugned order dated 13.03.2024 passed by the learned Tribunal in O.A No.303/2019.

7. The respondent no.1, who happens to be an employee of BSNL, sought reimbursement of bills on account of his liver surgery/transplant and treatment which cost him Rs. 41,80,720/- and all the bills of Dr. B.L.K. Memorial Hospital, Pusa Road, New Delhi were duly submitted.

8. The case of the respondent no.1 before the learned Tribunal was that the he had not been reimbursed fully and only Rs. 27,16,572/- had been paid. The said position has been clarified through the impugned order which has been annexed with the OA, which states that the payment has been made as per the CGHS package rate. However, case of the respondent no.1 before the learned Tribunal was that an amount of Rs.13,29,123/- was yet to be



paid by the present petitioners.

9. It is not in dispute that hospital mentioned above i.e. Dr. B.L.K. Memorial Hospital was an empanelled hospital and the hospital was supposed to charge as per the mutually agreed terms i.e., CGHS rates, however, the respondent had been overcharged by the hospital, where the patient was referred by the petitioners themselves. The said position was not explained by the petitioners before the learned Tribunal.

10. Counsel for the respondent no.1, before the learned Tribunal, had relied upon a judgment of the High Court of Punjab and Haryana in CWP No. 11628 of 2016, in the case of ***Hari Ram vs. Bharat Sanchar Nigam Ltd and Ors.*** He further relied upon a judgment dated 17.11.2022 of the learned Tribunal in OA No. 1371/2019 titled ***Khem Singh vs. Bahart Sanchar Nigam Limited & Ors.,*** CAT, Principal Bench, wherein the OA was allowed and the petitioners were directed to reimburse the balance amount within a specific time with interest @ GPF rate.

11. For the convenience of this Court, relevant paragraphs of the additional affidavit filed on 27.02.2024, highlighting medical policy for BSNL employee (which came into force with effect from 24.02.2003) are mentioned as under:

“1.5 Eligibility:

All serving and retired employees of BSNL including



deputationists will be eligible for this scheme. However, the employees in order to avail of this scheme have to opt for this scheme whereby they will not be allowed the facility under CGHS Scheme. The employees opting for this scheme, can avail of Domiciliary treatment either from P & T dispensaries or from any Registered Medical Practitioners (RMPs) depending on their option to be exercised while registering for this scheme. The employees opting for this scheme will be eligible for Indoor treatment as per this scheme.

2.2.0 Treatment in recognized hospitals/nursing homes etc:

An employee (including retired employee and his/her dependants shall be entitled to the reimbursement of expenses at the approved rates at all hospitals recognized from time to time by the management. Till such time as approved rates in recognized hospitals are not notified by BSNL management, the reimbursement will be as per actual expenses basis. Entitlement under this clause will be separate and distinct from the ceiling amount prescribed in para 2.1.0 and 2.1.1 under domiciliary / out door treatment. All expenditure incurred in connection with the treatment will be reimbursable subject to a limit on the room rent which will be as Annexure-I.

2.2.2. Treatment in non-recognised hospitals:

In emergency cases, the reimbursement will be allowed for treatment in non-recognised hospital with the approval of CGM for field office employees and concerned: Director of BSNL Board for C.O. employees. The amount will be restricted to rates applicable for a particular recognized hospital to be notified by CGM/BSNL C.O.”

12. In addition to above, paragraphs 10 & 12 of the BSNL Employees Medical Reimbursement Scheme-Instructions for operation of the scheme, read as under:

“10. List of recognized hospitals shall be notified immediately by all the Heads of Territorial Circles, as outlined in the BSLMRS, taking into consideration the infrastructure available, quality of service, standard rate of various treatments vis-à-vis the CGHS approved rates etc. The guidelines for this purpose have already been issued vide this office letter of even No. dated 27.2.2002. A further detailed guideline for empanelling of



hospitals is enclosed (Annexure- G).

12. As per para 2.2.2 of BSNLMRS, the reimbursement will be allowed for treatment in non-recognized hospitals in emergency cases with the approval of CGM for field office employee and concerned Director for C.O. employees. The amount of reimbursement will be restricted to the CGHS rates applicable at Delhi.”

13. Further, the respondent no.1 drew the attention of the learned Tribunal to the bills and tabulated list given to him by the B.L.K. Memorial Hospital wherein category wise cost had been reflected as applied amount, verified amount and difference amount. The respondent no.1 also referred to Annexure-5, before the learned Tribunal, which dealt with CGHS treatment, list of procedure/investigation in Delhi/NCR under column Non-NABH/Non- NABL Rates and NABH/NABL Rates, which gave an impression that CGHS treatments were treated under different categories i.e., Non-NABH/Non-NABL. It was seen that NABH/NABL rates were higher than Non-NABH/Non-NABL rates.

14. Learned counsel for the petitioners submits that the petitioners have package rates with regard to such surgeries and the reimbursement is restricted to those package rates. Although, the learned Tribunal noted that the counsel for the petitioners appreciates that there are package rates with the BLK Hospital for the BSNL, however, in this particular case, the BLK hospital has not restricted the bills of the respondent no.1 as per the package rates.



15. The case of the petitioners before the learned Tribunal was regarding the approvals by BSNL with regard to the respondent no.1's treatment at B.L.K. Hospital which were issued on various dates including 20.02.2017, 24.03.2017, 07.04.2017 and 11.10.2017, which was a list of empanelled Private Hospitals, wherein it was stated that the reimbursement would be made as per the CGHS rates or Hospital Rates, whichever would be lower. Counsel for the petitioners also drew the attention of the learned Tribunal to Annexure-5, wherein the name of Dr. B.L.K. Memorial Hospital was reflected at Serial No.03 and under column NABH Accreditation, it was shown that it was valid up to 08.09.2019. Learned counsel for the petitioners further stated before the learned Tribunal that it was in the knowledge of the respondent no.1 that he would only be reimbursed as per the CGHS rates and hence the learned Tribunal has wrongly passed the impugned order and accordingly, the present petition deserves to be allowed.

16. On the other hand, the learned counsel for the respondent no.1 opposed the arguments of learned counsel for the petitioners by drawing the attention of the learned Tribunal to the medical policy for BSNL employees and stated that the respondent no.1 was an eligible candidate as per the said policy of BSNL. The paragraph 2.2.0 (supra) of the said policy was limited to recognized hospitals/nursing homes. Categorically it was stated that any employee (including retired employee) and his/her dependents shall be entitled to the reimbursement of expenses at the approved rates at all hospitals recognized from time to time by the management. Till such time as



approved rates in recognized hospitals were not notified by BSNL management, the reimbursement would be as per actual expenses basis. It was further stated that the entitlement under the said clause shall be separate and distinct from the ceiling amount prescribed in paragraphs 2.1.0 & 2.1.1 of the policy.

17. In view of the above, case of the respondent no.1 before the learned Tribunal was that since there were no approved rates for B.L.K. Hospital at the time of treatment of the respondent no.1, the said respondent was fully entitled for reimbursement of expenses on actual basis under the said clause. As far as non-recognized hospitals were concerned, as per paragraph 2.2.2.(supra), the amount would be restricted to rates applicable for a particular recognized hospital to be notified by CGM/BSNL C.O. However, the said position was not applicable to the case before the learned Tribunal.

18. Learned counsel for the respondent no.1 further drew attention to the instructions for operation of the BSNL Medical Reimbursement Scheme (supra), highlighting paragraph 12 (already quoted hereinabove), which stated that the reimbursement would be allowed for treatment in non recognized hospitals in emergency cases with the approval of CGM for field office employee and concerned Direction for C.O. employees. The amount of reimbursement would be restricted to the CGHS rates applicable at Delhi. Thus, it was envisaged in the scheme that treatment in non-recognized and recognized Hospitals would be dealt distinguishably and the respondent no.1



needed to be dealt with as per recognized hospitals.

19. Counsel for the respondent no.1 also drew attention of the learned Tribunal to its own judgment passed in OA No. 1371/2019 (supra) highlighting paragraphs 6.1., 6.2, 6.3, 6.4, 6.5, and 7, which reads as under:

“6.1. On perusal of the record of the case, it is seen that as per the policy of BSNL, An employee (including retired employee and his/her dependants shall be entitled to the reimbursement of expenses at the approved rates at all hospitals recognized from time to time by the management./Till such time as approved rates in recognized hospitals are not notified by BSNL management, the reimbursement will be as per actual expenses basis/Entitlement under this clause will be separate and distinct from the ceiling amount prescribed in para 2.1.0 and 2.1.1) under domiciliary/ outdoor treatment. All expenditure incurred in connection with the treatment will be reimbursable subject to a limit on the room rent which will be as per Annexure –I

2.21 List of recognized hospitals/nursing homes etc.:

List of recognized hospitals / nursing homes will be notified by the management from time to time. For Delhi this will be done by BSNL C.O. The CGMs of territorial Circles in consultation with BSNL C.O. will notify list of recognized hospitals/ nursing homes in places under their jurisdiction. Employees of Project Maintenance T&D/QA. circles etc. will follow lists so prepared by the territorial circles. Until such lists are prepared and notified, all hospitals recognized under CGHS and CS(MA) rules or by state governments will be deemed to have been recognized for-the purpose of this scheme. List of such hospitals etc. will be notified by BSNL C.O. all CGMs of territorial circles immediately on commencement of this scheme by suitable administrative order.

2.2.3 Advance for medical treatment in hospital:

Working Employees may be allowed advance towards



expenses on hospitalization where long duration treatment or major operation becomes necessary. Advance shall be paid to the employees, based on estimates to be obtained from the hospitals as per CGHS scheme of Central Government. From the above, it is not clear from the impugned order, whether the approved rates which were notified by BSNI management inasmuch as in that event the reimbursement will as per actual expenses basis.

6.2. In terms of clause 2.2 treatment in non-recognised hospitals in emergency cases, the reimbursement will be allowed for treatment in non- recognised hospital with the approval of CM for field office employees and concerned Director of BSNL Board tor C.O. employees./ The amount will be restricted to rates applicable for a particular recognized hospital to be notified by CGM/BSNL C.O.

6.3. The applicant was a Junior Telecom Operator, the said impugned order passed by the AGM, the AGM ought to have taken into consideration while passing the impugned order, approval of the CM/concerned Director BSNL in case of Emergency Treatment, which has been ignored by him while passing impugned order.

6.4 In a recent Judgment passed by this Tribunal in OA No. 446/2018 dated 14.11.2022 titled as Rahul Kumar Vs DTC it has been rules as under

6.5. Therefore, the stand taken by the respondents is contrary to their own medical policy and ought to have been adjudicated in light of the same. In view of the above, the impugned order dated 26.02.2019 is liable to be set aside.

7. The present OA is allowed and the petitioner is entitled to reimburse balance amount Rs. 200000/-, within a period of 45 days from date of receipt of a certified copy of this order, failing which the applicant shall be entitled to interest @ GPF rate after expiry of period of two months as aforesaid till the actual date of payment of the same in the date of actual payment.

No order as to costs”



20. In addition to above, the respondent no.1 relied upon a judgment passed by the High Court of Punjab and Haryana in CWP No. 11628 of 2016 (supra) wherein in similar circumstances, the respondents therein were directed to pay full reimbursement to the petitioners therein along with interest of 7% per annum.

21. In view of the above discussion and the settled position of law, we find no error or perversity in the order dated 13.03.2024 passed by the learned Tribunal. Finding no merit in the present petition, the same stands dismissed.

22. We hereby direct the petitioners to comply with the order passed by the learned Tribunal within four weeks from today, failing which the respondent no.1 shall be entitled to interest @ of 12% per annum on the delayed payment.

(SURESH KUMAR KAIT)
JUDGE

(GIRISH KATHPALIA)
JUDGE

SEPTEMBER 3, 2024/ ry