

Court No. - 2

Case :- WRIT - A No. - 2250 of 2024

Petitioner :- Sunil Kumar

Respondent :- Union Of India Thru. Chairman Railway Board (Crb And Ceo) Rail Bhavan , New Delhi And 3 Others

Counsel for Petitioner :- Ravi Shankar Singh, Maya Rani Singh

Counsel for Respondent :- A.S.G.I.

Hon'ble Rajan Roy,J.

Hon'ble Om Prakash Shukla,J.

1. Heard.

2. By means of this petition, the petitioner has challenged judgment and order dated 06.03.2024 passed by Central Administrative Tribunal, Lucknow Bench in Original Application No.118 of 2023 dismissing the original application of the petitioner herein. The grievance of the petitioner before the original application was that in an emergency, he had undergone treatment at Medanta Hospital, Lucknow for his heart ailments. When he submitted the ,medical papers for reimbursement, the entire amount claimed which was Rs.2,95,480/- was not reimbursed instead an amount of Rs.1,18,949/- was reimbursed. Therefore, seeking complete reimbursement, he filed the said O.A. relying upon the decision of Hon'ble the Supreme Court in '***Shiv Kant Jha vs. Union of India***' passed in Writ Petition (Civil) No.694 of 2015 on 13.04.2018 and certain judgments of Rajasthan High Court and Chandigarh Bench of the Tribunal. The Tribunal at Lucknow dismissed the claim with reference to paragraph 648 of Indian Railway Medical Manual, 2000 and another provision contained in Circular of the railway board dated 31.01.2007, a copy of which has been placed before us and by which the Indian Railway Medical Manual, 2000 or any office order issued prior to 31.01.2007 on the subject of reimbursement of medical expenses-procedure of disposal stood modified. Now, when we peruse the judgment of the Tribunal and the Circular dated 31.01.2007, we find that in cases where treatment is taken in non-recognized private hospitals such as the case at hand as Medanta was not a recognized hospital for treatment of railway employees, reimbursement should be made at the CGHS rate of the city or nearest city. CGHS (Central Government Health Scheme) approved rates are to be recommended / processed as an upper limit for sanction. Now, this is precisely what has been

done by the opposite parties and the CGHS rates on which the calculation has been made are not in dispute before us. In this view of the matter, unless there was a challenge to the Circular dated 31.01.2007, we fail to understand as to how we can fault to the Tribunal for having arrived at the conclusion arrived at ultimately and for dismissing the claim of the petitioner. As regards the reliance placed upon the decision of Hon'ble the Supreme Court in *Shiv Kant Jha (supra)*, the Tribunal has categorically mentioned that the said decision specifically mentions that it is confined to the facts of the said case only. No benefit can accrue to the petitioner on the basis of this case especially as the aforesaid Circular dated 31.01.2007 had not been taken into consideration.

3. At this stage, learned counsel for the petitioner sought permission to challenge the Circular dated 31.01.2007 and seek consequential reliefs.

4. We leave it open for the petitioner to challenge the Circular dated 31.01.2007 as far as it may be permissible in law and a copy of the said Circular has been provided to the petitioner's counsel and based on any successful challenge if any consequential benefits are admissible to the petitioner then our judgment in this case or that of the Tribunal will not come in the way.

5. With these observations/ direction, the petition is **disposed of**.

(Om Prakash Shukla,J.) (Rajan Roy,J.)

Order Date :- 29.4.2024

Shanu/-