

APHC010453062024



**IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI
(Special Original Jurisdiction)**

[3509]

**FRIDAY ,THE TWENTIETH DAY OF JUNE
TWO THOUSAND AND TWENTY FIVE**

**PRESENT
THE HONOURABLE SRI JUSTICE RAVI NATH TILHARI
AND
THE HONOURABLE SRI JUSTICE CHALLA GUNARANJAN**

WRIT PETITION NO: 23308/2024

Between:

Union of India and Others

...PETITIONER(S)

AND

A. Chalapati Rao

...RESPONDENT

Counsel for the Petitioner(S):

1.C V R RUDRA PRASAD (CENTRAL GOVT COUNSEL)

Counsel for the Respondent:

1.EDUKONDALU CHANDU

The Court made the following:

**THE HONOURABLE SRI JUSTICE RAVI NATH TILHARI
AND
THE HONOURABLE SRI JUSTICE CHALLA GUNARANJAN**

Writ Petition No.23308 of 2024

ORDER: (per Hon'ble Sri Justice Challa Gunaranjan)

Petitioners assail order, dated 23.02.2024, passed by the Central Administrative Tribunal, Hyderabad (for short "the Tribunal"), in O.A.No.020/0883/2021, by which, they were directed to reimburse balance medical claim to a tune of Rs.3,80,717/-, to the respondent herein, incurred on account of medical treatment of his daughter.

2. Petitioners herein are respondents and respondent is claimant before the Tribunal. For the sake of convenience, they are referred to as "respondents" and "claimant", as arrayed before the Tribunal.

3. Claimant retired from service from the post of Senior Section Engineer (P.Way)/BTTR, South Central Railway, Vijayawada Division, on attaining age of superannuation on 31.03.2018. His dependent daughter, aged 24 years, as was suffering from severe left leg pain and unable to walk, was taken to private hospital at Nellore on 10.01.2019, upon diagnosing the seriousness and immediate medical treatment, she was referred to Vijaya Super Specialty Hospital at Chennai. She was immediately admitted in I.C.U. at aforesaid hospital on 10.01.2019 itself in view of emergency. After thorough

diagnosis and evaluation of patient, the treating doctor diagnosed her illness "*Acute Ischemia Left Lower Limb (Advanced) Thrombus in Infra Renal Aorta 100% Occluded Rirhr+Poplitel Arthery-100% occluded left superficial femoral artery raw area left leg famicial insulin resistance syndrome-? Type-3 autommune thyroid disease acromegaly etc.*" Immediately, daughter of claimant has undergone surgery and was in hospital as inpatient from 10.01.2019 to 29.01.2019, for which claimant incurred expenditure of Rs.4,40,927/. Claimant submitted application, dated 23.04.2019, for reimbursement of the same. The 5th respondent, by letter, dated 05.08.2019, recommended to Senior DFM/BZA, for payment of Rs.1,81,266/- as per CGHS 2014 tariff, after evaluating the genuineness of the claim and consulting the Specialist regarding the condition of patient, who opined to be a case of emergency and treatment to be essential. Surprisingly, 5th respondent has issued memorandum of sanction, dated 28.01.2021, for reduced amount of Rs.60,210/- as against aforesaid recommendation. Claimant immediately submitted representation, dated 23.03.2021, requesting the 5th respondent to revise the sanction amount of reimbursement, which came to be rejected by proceedings, dated 23.08.2021, justifying the same to be in accordance with CGHS rates. Assailing the same, claimant preferred the O.A.No.020/0883/2021 before the Tribunal.

4. Respondents filed counter *inter alia* stating that the disease diagnosed to claimant's daughter being very unusual, after extensive evaluation by the Endocrinologist, though the treatment offered was not included in CGHS surgical packages, considering physical condition of patient, 5th respondent has made initial recommendation for an amount of Rs.1,81,266/-, however, later the same has been revised having regard to the Railway Board letter No.2005/H/6-4/Policy-II, dated 31.01.2007, which provided that for any treatment taken in non-recognized private hospital, the reimbursement should be not more than at the CGHS rates of that city or nearest city, therefore, the reimbursement was limited to CGHS package rates. It is also stated that Senior DFM/BZA, by letter, dated 04.09.2019, in response to the initial recommendation, has made remarks that the claim has to be considered with reference to CGHS package rates for surgical treatment, as claimant's daughter undergone various types of surgical procedures, which necessitated revision of reimbursement.

5. The Tribunal, having considered aforesaid rival submissions, being satisfied that there is no issue with respect to the nature of treatment, the urgency in undergoing the same,, and entitlement of claimant for medical reimbursement, by placing reliance on the judgment of the Hon'ble Apex Court in **Shiva Kant Jha v. Union of**

India¹, later followed by Delhi High Court in **Union of India v. Joginder Singh**² allowed O.A., directing respondents to reimburse balance medical claim to the claimant, within a period of six weeks from the date of receipt of the order. Assailing the same, present writ petition is filed.

6. Heard Sri C.V.R. Rudra Prasad, learned Central Government Counsel, appearing for the writ petitioners/respondents and Sri Edukondalu Chandu, learned counsel for the respondent/ claimant.

7. Learned counsel for the writ petitioners/respondents submits that the claim of the claimant for medical reimbursement is regulated by policy, in particular, the joint procedure order for medical reimbursement cases and instructions, dated 31.01.2007, issued by Railway Board, which *inter alia* provided for specific procedure and also stipulated the package rates, hence, any claim made contrary to the same cannot be entertained. Elaborating further, he would submit that in terms of Board Instructions, dated 31.01.2007, the beneficiaries must at first instance report to the Railway Medical Officer for medical treatment, who in turn, will make necessary arrangements for such treatment through Railway Hospitals/

¹ (2018) 16 SCC 187

² 2023 SCC OnLine Del 2707 : (2023) 3 LLJ 404

Government Hospitals/Private recognized hospitals and only in exceptional situations, the CMDs of Zonal Railways after obtaining special permission from the Board are entitled to refer for treatment in any private hospital on case to case basis. However, as an exception in case of emergency, the beneficiary or dependent can on their volition get treatment at private hospital and in such case, the claim for medical reimbursement shall be made at CGHS package rates of that city or nearest city, therefore, in the present case, following the same, the claim of respondent/claimant, though initially has been recommended for Rs.1,81,266/-, the same has been later revised downwards for Rs.60,210/- applying the CGHS package rates, which cannot be found fault with. He would, therefore, submit that the Tribunal without appreciating the purport of the aforesaid Board instructions, nor in absence of a challenge to the rates prescribed by the CGHS, issued directions to pay the balance amount, which is completely erroneous. He also contended that Tribunal misplaced in relying on the judgment of the Hon'ble Apex Court in **Shiva Kant Jha**¹ case, when the same itself clearly restricted applicability to the facts of that particular case, so also, erred in relying on the judgment rendered by the Delhi High Court in **Joginder Singh**² case, without demonstrating as to how the ratio laid down applies to facts of the

present case, and hence, prays to allow the writ petition by setting aside the impugned order of the Tribunal.

8. *Per contra*, learned counsel for the respondent/claimant supported the impugned order of the Tribunal by contending that as the respondents have not disputed the nature of emergency for undergoing treatment at non-paneled private hospital, even as per the aforesaid circular, the claim for reimbursement is justified. In so far as the CGHS package rates applied, when the 5th respondent initially has recommended for reimbursement of Rs.1,81,266/-, there is no reason why the same be revised downwards later on the purported stand that same has been revised on account of patient undergoing various types of surgical procedures require to be applied relevant CGHS package rates when the said surgical procedures do not find place in the CGHS rates is completely erroneous. It is also contended that in so far as medical emergency is concerned, the 5th respondent in the recommendation letter, dated 05.08.2019, categorically referred to the Specialist opinion, who on verification and analysis of genuineness, found that it is a case of clear emergency and treatment was essential, therefore, as it is clearly established beyond doubt, the claimant is entitled to be extended the reimbursement as recommended therein.

9. We have given our anxious consideration to the contentions raised above.

10. The claimant retired from service. It is not in dispute that his dependent daughter has undergone medical treatment at Vijaya Super Specialty Hospital, Chennai, as inpatient from 10.01.2019 to 29.01.2019. She has been diagnosed as *“Acute Ischemia Left Lower Limb (Advanced) Thrombus in Infra Renal Aorta 100% Occluded Rirhr+Poplitel Arthery-100% occluded left superficial femoral artery raw area left leg famicial insulin resistance syndrome-? Type-3 autoimmune thyroid disease acromegaly etc.”*, as such, was operated for the same. The claimant has filed emergency certificate, dated 11.02.2019, issued by the hospital in support of the said treatment. After availing the said treatment, claimant has submitted claim for reimbursement of medical expenses for Rs.4,40,927/-. The same was verified and analyzed regarding genuineness and also specialist opinion was sought for to assess the condition of patient whether in the nature of emergency and required immediate treatment, upon satisfying the same, 5th respondent, by letter, dated 05.08.2019, recommended the claim for reimbursement for Rs.1,81,266/- as per CGHS 2014 tariff. There is no dispute with respect to the factum of claimant being eligible to claim medical reimbursement, treatment

provided to his daughter and the emergency, in which she has been treated. The specialist opinion as reflected from the letter, dated 05.08.2019, issued by the 5th respondent, and also the counter filed before the Tribunal, in para.4, clearly endorses that even respondents are satisfied that it is a case of emergency requiring immediate treatment. As one of the tests for processing medical reimbursement in case of treatment availed at private hospitals being medical emergency, and that in the present case, is clearly established and even respondents endorses the same, there is no controversy as such on aforesaid aspect. However, respondents though initially recommended for reimbursement of Rs.1,81,266/-, later revised the same downwards to Rs.60,210/- by placing reliance on circular, dated 31.01.2007, issued by the Railway Board. Clauses 2 and 4 relevant for the present purpose, read as follows:

II. Calculation of the amount of reimbursement to be sanctioned out of the claimed amount:-

Once the emergency is established beyond doubt, then the case should be further processed for calculating the amount/money to be sanctioned.

For that, following guidelines are given:-

- a) Treatment taken in Govt. Hospital – Full admissible amount should be recommended for sanction.
- b) Treatment taken in Recognized Private Hospital for an ailment for which it is recognized – Rate as approved by Railway should be processed for sanction.
- c) Treatment taken on a Recognized Private Hospital but for an ailment for which it is not recognized or treatment taken in a non-recognized Private Hospital:- Reimbursement should be made at the CGHS rates of the city or nearest city. CGHS

(Central Govt. Health Scheme) approved rates are to be recommended/processed, as an upper limit for sanction.

III.

IV. In Medical Science, no list can be fully exhaustive. Hence, it is likely that there will be few occasions when a claim has been submitted which is not appearing exactly in the CGHS rate list. On these cases, the MD/CMS/MS in charge of Divisions will apply their mind and will come to a logical conclusion. Then, they will pass a speaking order to certify the rate/s being recommended, in consultation with Associate Finance.”

11. In the backdrop of aforesaid Clauses, initially, the 5th respondent has processed the claim of the Claimant and recommended for reimbursement of Rs.1,81,266/- as the same were falling and included in CGHS package Nos.552, 553 and 1073, besides the other expenses, however, the expenses such as nursing charges, diet charges, attendant's room, cost of diapers, food supplements were not considered eligible for reimbursement. Later, 5th respondent, by letter dated 10.10.2019, has revised the reimbursement claim to Rs.60,210/- for coming to such conclusion, it has been stated that though patient has extensively diagnosed by the Endocrinologist, only, the surgical package rates as proved under CGHS alone have been considered for reimbursement. For better understanding, the content of the said letter is extracted hereunder:

“The patient required hospital stay for the procedures, one special major and one major surgery. She was investigated extensively by endocrinologist, beyond the

purview of surgery. Hence, the initial calculation was done accordingly. However, in view of the suggestion to include only surgical packages for calculation of reimbursement vide your letter cited above, this revised calculation is being submitted for your consideration.”

12. Now, therefore, the controversy boils down to the application of surgical package for arriving the amount of reimbursement. It is not in dispute that patient has been investigated initially to ascertain or diagnosed what exactly is the nature of treatment required and later on she was given treatment for two procedures, one special major and one major surgeries. It appears now that the respondents want to confine the reimbursement only to surgical packages, by referring CGHS quotes 551,552 and 1073, which relate to Embolectomy, VASC repair and Skin repair respectively. When daughter of claimant has undergone one special major and one major surgery, having regard to the complexity of the treatment extended, the procedures adopted cannot be fit into aforesaid three services falling under CGHS quotes 551,552 and 1073 in a straightjacket formula. The very same 5th respondent has initially made recommendation by letter dated 05.08.2019, the statement of amount as recommended clearly provided for various services against different CGHS quotes, which are all admittedly were undertaken in the process and procedures for treatment of the patient. The respondents in their counter clearly

admitted at para.4 that claimant's daughter, aged 24 years, was diagnosed with "*Acute Ischemia Left leg with 100% occlusion in infra-renal aorta, popliteal and superficial femoral arteries, familial insulin resistance syndrome, Type 2 Diabetes, Autoimmune thyroid disease, Hypothyroidism, Acromegaly*", which is very unusual and hence, extensive evaluation by Endocrinologist was warranted and justified in this case. It is also stated that aforesaid investigations were not included in CGHS surgical packages and hence, considering the critical condition of patient, the medical reimbursement was recommended for an amount of Rs.1,81,266/- beyond the usual surgical packages. When such is the case, unless the Endocrinologist's evaluation, the patient could not have been at first instance diagnosed with the unusual and rare problem for taking immediate steps of treatment, the cost associated in such evaluation be definitely treated as integral part of treatment and therefore, the respondents would not now be justified in refuting to or denying to reimburse the same. The CGHS quotes referred to above would apply to normal cases, but not to an extra-ordinary or unusual case of this nature, therefore, the same cannot be applied with a straightjacket formula. Even Clause IV of the aforesaid circular contemplates that as the medical treatments and CGHS rates annexed with circular cannot be exhaustive, in case of a claim made

for which there is no exact code or has resemblance to the one provided therein for applying CGHS rates, respective in-charges of divisions were to apply their mind to come to a logical conclusion for effecting the rates to process reimbursement. Even, the 5th respondent has, by letter dated 05.08.2019, processed the claim for reimbursement having regard to the fact that the treatment availed by the patient was not exactly fitting into the CGHS rates provided, but, later at the instance of Senior BFM/BZA, the procedures undergone by the patient have been bifurcated and split into three quotes for the purpose of applying the CGHS package rates rather than considering the entire treatment as a composite procedure. This approach of respondents, in the opinion of this Court is not in accordance with the aforesaid circular, which would definitely defeat the very purpose of providing health facility scheme to the Government employees. As found by this Court when treatment undergone, nature of emergency and the amounts spent for the same, are not in dispute, there is no reason why claimant be not entitled for reimbursement of the entire amount spent for medical treatment. Hence, the claimant is entitled to the balance amount of reimbursement towards medical treatment of his daughter for Rs.3,80,717/-. This Court is conscious of the fact that the judgment rendered by the Hon'ble Apex Court in **Shiva Kant Jha**¹ case has been rendered in the context of particular facts of that

case. However, the observation of the Hon'ble Apex Court in paras.17, 18 and 19, which discuss the intendment and purport of providing health facility scheme to the Central Government Employees needs attention, which are reproduced hereunder:

“17. It is a settled legal position that the government employee during his lifetime 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 specialised 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 CGHS have denied the grant of medical reimbursement in full to the petitioner forcing him to approach this Court.

18. 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 abovesaid

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 CGHS rates and that too after following a proper procedure given in the circulars issued on time to time by the Ministry concerned, 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.

19. In the present view of the matter, we are of the considered opinion that 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 the 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 Rs 4,99,555 to the writ petitioner. We also make it clear that the said decision is confined to this case only.”

13. Recently, Bombay High Court, in **Anirudh Prataprai Nansi v. Union of India**³, while dealing with an issue relating to reimbursement of expenditure on account of medical treatment availed by the petitioner therein for heart transplant, has considered the scope and ambit of the notification issued by the Government of India, Ministry of Health and Family Welfare, which provided for medial reimbursement under CGHS. Even there, as petitioner has undergone medical treatment at non-empanelled private hospital, the cost of reimbursement was restricted to the amount as provided

³ 2025 Supreme (Online)(Bom) 4021 = Judgment, dated 06.06.2025, in W.P.No.7546 of 2022 of Bombay High Court (D.B.)

under the CGHS and claim for reimbursement of entire amount was denied. Assailing the same, when petitioner therein approached the Bombay High Court, after elaborately discussing the nature of treatment availed, seriousness and nature of urgency, though CGHS rates restricted the claim, in terms of the rates prescribed therein, the Court has come to the conclusion that in a special case of that nature *dehors* the office memorandum, petitioner cannot be denied full medical reimbursement, in as much as, the office memorandum issued was in exercise of executive powers conferred on the Central Government, in the absence of any specific Legislation restricting such claims in special cases, it is always desirable for the authorities to exercise powers leaning in favour of preservation of fundamental rights. It is also held that rules governing reimbursement cannot be sacrosanct and nothing outside the rules in exceptional/special cases and especially deserving cases, cannot come in the way of reimbursement by the Central Government. The above observations made equally apply even to the facts of the present case. We are convinced that this is also a fit case where the entire cost of reimbursement be allowed to the petitioner.

14. The Tribunal, though, has placed reliance on the judgment of the Hon'ble Apex Court in **Shiva Kant Jha**¹ case, which later, came to

be followed by the Delhi High Court in **Joginder Singh²** case, for allowing the claim of claimant, for the reasons stated above by this Court, the conclusion arrived by the Tribunal cannot be found fault with.

15. In view of the same, we do not find any merit in the writ petition.

16. Accordingly, the writ petition stands dismissed. No order as to costs.

As a sequel, miscellaneous applications pending consideration, if any, in this case shall stand closed.

JUSTICE RAVI NATH TILHARI

JUSTICE CHALLA GUNARANJAN

Date:20.06.2025

CS

HIGH COURT OF ANDHRA PRADESH

* * * *

Writ Petition No.23308 of 2024**Between:**Union of India rep. by the General Manager,
South Central Railway, Secunderabad & Ors.

.....Petitioners

AND

A. Chalapati Rao

.....Respondent

DATE OF JUDGMENT PRONOUNCED: 20.06.2025**SUBMITTED FOR APPROVAL:****THE HON'BLE SRI JUSTICE RAVI NATH TILHARI
&
THE HON'BLE SRI JUSTICE CHALLA GUNARANJAN**

- | | |
|---|-----|
| 1. Whether Reporters of Local newspapers may be allowed to see the Judgments? | Yes |
| 2. Whether the copies of judgment may be marked to Law Reporters/Journals | Yes |
| 3. Whether Your Lordships wish to see the fair copy of the Judgment? | Yes |

JUSTICE CHALLA GUNARANJAN

*** THE HON'BLE SRI JUSTICE RAVI NATH TILHARI
&
THE HON'BLE SRI CHALLA GUNARANJAN**

+ Writ Petition No.23308 of 2024

% 20.06.2025

Between:

Union of India rep. by the General Manager,
South Central Railway, Secunderabad & Ors.

.....Petitioners

AND

A. Chalapati Rao

.....Respondent

! Counsel for the Petitioners : Sri C.V.R. Rudra Prasad
Learned Central Govt. Counsel

Counsel for the Respondent: Sri Edukondalu Chandu

< Gist :

> Head Note:

? Cases Referred:

1. (2018) 16 SCC 187
2. 2023 SCC OnLine Del 2707 : (2023) 3 LLJ 404
3. 2025 Supreme (Online)(Bom) 4021 = Judgment, dated
06.06.2025, in W.P.No.7546 of 2022 of Bombay High Court (D.B.)