

APHC010453112024



**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: 23276/2024

Between:

Union of India, and Others

...PETITIONER(S)

AND

Syed Gayaz Chisty

...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.23276 of 2024

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

Petitioners assail order, dated 23.02.2024, passed by the Central Administrative Tribunal, Hyderabad Bench (for short "the Tribunal"), in O.A.No.020/0884/2021, by which, they were directed to reimburse balance medical claim to a tune of Rs.1,69,300/- to the respondent herein, incurred for his medical treatment.

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 Commercial Clerk/NLR, South Central Railway, Vijayawada Division, on attaining age of superannuation on 30.09.2011. On 06.02.2020, he fell down and sustained injury. Therefore, he was admitted to Apollo Specialty Hospital at Nellore. His condition was evaluated and diagnosed as *"D-10-D11 OYL WITH LISTHESIS L2-L5 SPONYLOLISHESIS LUMBAR CANAL*

STENOSIS ANKULOSED SPINE IN KYPHO SCOLIOSIS”.

Later, he had undergone surgical procedure on 11.02.2020 and was discharged from the hospital on 15.02.2020. Claimant has incurred an amount of Rs.1,90,000/- towards the medical treatment, which he claimed for reimbursement by application, dated 30.09.2020. As against the same, he was allowed reimbursement only for an amount of Rs.20,700/- by proceedings, dated 18.11.2021. Aggrieved by the same, he preferred O.A. No.020/0884/2021 before the Tribunal.

4. Respondents filed counter-affidavit *inter alia* stating that the treatment availed by the claimant is due to injury caused on account of fall which is not an emergency treatment, rather routine treatment, for which claimant in terms of Railway Board letter No.2005/H/6-4/Policy-II, dated 31.01.2007, is entitled to undergo in any Government Hospitals/Railway Hospitals/affiliated and recognized or empanelled private hospitals, which he did not choose and rather got treatment done at non-empanelled private hospital, for which, he is entitled to be reimbursed as per the CGHS package rates provided therein. The respondents have processed the claim made by him in terms of aforesaid Railway Board circular letter, as per which, for the treatment undergone

i.e., “*Lumbar Laminectomy*” surgical procedure, the prescribed rate of Rs.20,700/- has been allowed as per his entitlement and, therefore, prayed to dismiss the O.A.

5. The Tribunal, having considered aforesaid submissions, by placing reliance on the judgment of the Hon’ble Apex Court in **Shiva Kant Jha v. Union of India**¹, later followed by Delhi High Court in **Union of India v. Joginder Singh**² allowed the claim for balance medical reimbursement at Rs.1,69,000/- and directed the respondents to pay the same 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 and Sri Edukondalu Chandu, learned counsel for the respondent/claimant.

7. Learned counsel for the writ petitioners 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

¹ (2018) 16 SCC 187

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

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/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 has been recommended and allowed for Rs.20,700/-, by 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 the nature of surgery undergone by the claimant cannot be said to be not of emergency nature and because of immediate medical advice, petitioner had to undergo the surgery rather than awaiting for the permission to join in railway hospital/recognized/empaneled private hospital.

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

10. Claimant retired from service and later he has undergone treatment for injury sustained by getting admitted at a private

hospital on 06.02.2020 and got discharged on 15.02.2020, for which, he incurred medical expenditure of Rs.1,90,000/-. As per the medical certificate, dated 14.09.2020, petitioner has undergone "lumbar laminectomy". The claimant claims that the aforesaid surgery operated is in the nature of emergency and required to be performed immediately on admission in the hospital, which, respondents disputed. Respondents are governed by policy and circular issued by the Railway Board Instructions letter, dated 31.01.2007, for processing the claim. 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. One of the pre-requisite conditions for processing of reimbursement towards medical claims is that the person claiming should establish beyond doubt that the treatment was availed in emergency situation. In normal course, as per the policy of respondents, as it runs various hospitals, the employees either in service or retired will be referred to such hospitals for treatment or to empaneled private hospitals on need basis. One will be entitled to claim entire amount as reimbursement and for treatment taken in recognized private hospital, the rates as approved by the Railways shall be made applicable. In case, treatment is availed in a non-recognized private hospital, reimbursement would be made at CGHS package rates of that city or nearest city. That being the scenario, in the present case, the claimant has not chosen to avail treatment either in Government Hospital or in recognized private hospital rather chose to avail treatment in non-empaneled private hospital. Further, aforesaid circular also contemplates that in case the

treatment availed is not envisaged in the list as annexed to the said letter, one can claim reimbursement for the said treatment, which will be considered in a comprehensive manner by the MD/CMS/MS in charge of Divisions by passing appropriate speaking orders. Admittedly, in the present case, the treatment availed by the claimant falls within the list with Code No.944 viz., “Cervical or Dorsal” or “Lumbar Laminectomy”, for which, the prescribed CGHS package rates are Rs.23,000/-. Though claimant has claimed that he had to undergo the surgery/ treatment on emergency basis and in support of which emergency certificate, dated 14.09.2020, has been relied on, the nature of treatment undergone i.e. “lumbar laminectomy” does not appear to be really life-threatening emergency for him to not avail such treatment in any of the government/railway hospital/empanelled private hospitals, as per his entitlement.

12. The medical certificate produced by the claimant, though referred to as “emergency certificate”, the same has to be evaluated in the context of reimbursement of medical expenses by construing whether the treatment extended was really so emergent and life-threatening. There should be a distinguishing factor between cases of normal treatment and treatment in case

of emergency or exigency. Only in exceptional and emergency cases, and if treatment is obtained from a hospital of choice, reimbursement towards medical expenses be considered albeit the Railway Board Circular letter as the same itself provides for the same. If above test is to be applied to facts of present case, it is axiomatic that the treatment availed by the claimant i.e. Lumbar Laminectomy would not fit into a case of real emergency or exigency.

13. Learned counsel for the claimant has placed reliance on the judgment of the Hon'ble Apex Court in **Shiva Kant Jha**¹ case. In the said case, the beneficiary therein was admitted to non-empanelled private hospital on account of cardiac ailments involving the implant of CRT-D device, which the Hon'ble Apex Court considered to be a real case of emergency and therefore, as an exceptional and considering facts of that particular case, reimbursement was allowed in full extent.

14. In **Mahipal Singh v. State of Haryana**³, High Court of Punjab and Haryana, was dealing with a case of beneficiary admitted to Apollo Hospital, Delhi, which again was an unempanelled private hospital for the ailment of blood cancer,

³ 2008 SCC OnLine P & H 321 = (2008) 2 PLR 319

which was a case of real life-threatening, besides it also considered the factum of non-availability of medical facility in institutions such as AIMS for such emergency treatment, therefore, justified to award reimbursement of the medical expenditure. Further, High Court of Tripura, in **Subal Das v. State of Tripura**⁴ was examining a case of beneficiary, who has been admitted to a private hospital on account of emergency situation when the patient sustained severe chest pain and breathing problem and later diagnosed lung cancer, for such emergent exigency, as special treatment was required, the claim for reimbursement has been allowed. In the said judgment, it also considered a case of treatment in normal course and treatment in emergency or exigency. For better appreciation, para.38 reads as under:

“38. I further clarify that there should be clear distinction between the treatment in “normal course” and the treatment in case of “emergency or exigencies”. Taking queue from various earlier decisions of this Court and the decision of the Apex Court in *State of Karnataka v. R. Vivekananda Swamy*, reported in (2008) 5 SCC 328, I hold that if an employee “***in normal course***” obtains treatment from a hospital of his choice, then, re-imburement would be made limited to the extent of his/her entitlement within the parameters of the medical scheme introduced by the Govt. for the said purpose.”

⁴ 2019 SCC OnLine Tri 100 : 2019 Lab IC 2050

15. Lastly, in the judgment in **Union of India v. Joginder Singh**⁵, the claim made by the beneficiary therein who was admitted to hospital when beneficiary fell unconscious, on examination found and diagnosed to have a severe neurology issue, for which, he underwent major surgery, having found to be a specialized treatment, which is not available at other government hospitals, the claim made for reimbursement of medical expenses was allowed. In all these cases referred to above, the beneficiaries have shown and found to be admitted in extreme emergency condition for specialized treatment, therefore, having satisfied the test of real emergency, the cases were considered for granting of full reimbursement towards medical treatment.

16. In **Bina Saxena v. Union of India**⁶, the beneficiary therein having developed acute pain in the urinary bladder was admitted to private hospital, initially where he undergone treatment for 17 days and got discharged. Later for the very same complaint, got once again admitted into ICU and for a week and was discharged later, as once again he developed same problem, he was again admitted in the very same hospital, after undergoing treatment,

⁵ 2023 SCC OnLine Del 2707 : (2023) 3 LLJ 404

⁶ 2023 SCC OnLine Bom 1265 = MANU/MH/2268/2023

having diagnosed for urinary bladder cancer, passed away later due to multiple organ failure. The claim for reimbursement of entire amount of treatment since was refused, O.A. came to be filed before the C.A.T., claiming balance amount for reimbursement, which came to be dismissed. Challenging the same, the matter was carried to High Court, the claimant therein canvassed before High Court irrespective of whether the case is of emergency or non-emergency, as the treatment is not in dispute, the claim for entire medical expenditure has to be reimbursed albeit the Railway Board circular, raised similar plea as raised in the present case, stating that the beneficiaries are entitled to claim only maximum upto the rates as prescribed by the CGHS and not more than the same. After considering the Apex Court judgment in **Shiva Kant Jha**¹ case, ultimately, the claim for balance amount has been rejected upholding the orders passed by the Tribunal by holding that the beneficiaries under CGHS are entitled to claim medical reimbursement as per CGHS rates and not beyond. Para.16 of the said judgment reads as under:

“16. Therefore, even if it is to be assumed that admission of Petitioner's husband was an emergency case, the only amount to which Petitioner would be entitled to is as per CGHS rates. In short, expenditure for the entire treatment availed at Ruby Hall Clinic by Petitioner's husband is reimbursed, albeit at CGHS rates.

No rule or administrative instruction is placed on record by Petitioner to show that any amount over and above CGHS rates can be reimbursed. Therefore, no fault can be found in the action of the Respondents who have taken sympathetic view of the matter and have reimbursed the entire costs of medical treatment (at CGHS rates) by ignoring the fact that Referral Memo was not obtained from CGHS Wellness Centre and Petitioner's husband was not admitted in emergency situation. In this manner, substantial amount of Rs. 9,68,893/- has been reimbursed to the Petitioner. Petitioner's claim for reimbursement of additional amount over and above Rs. 9,68,893/- is not supported by any rule or administrative instructions."

17. Even in the present case, as discussed above, claimant was admitted to private hospital on account of fall and injury sustained for which he underwent surgery of "lumbar laminectomy", which really is not an exceptional and emergency, therefore, as claimant undertook treatment at hospital of his choice, he cannot claim for 100% reimbursement of medical expenditure over and above prescribed by CGHS package rates in terms of Railway Board's Circular letter, dated 31.01.2007. The Tribunal, without considering any of aforesaid aspects and recording reasons in support thereof, merely following the judgment of the Hon'ble Apex Court in **Shiva Kant Jha**¹ case, has allowed the entire claim.

18. Therefore, in our considered opinion, the same is not sustainable and accordingly, the order, dated 23.02.2024, passed by the Tribunal in O.A.No.020/0884/2021, is hereby set aside.

19. Accordingly, the writ petition is allowed by setting aside the order, dated 23.02.2024, passed by the Tribunal in O.A.No.020/0884/2021. 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

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HIGH COURT OF ANDHRA PRADESH

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Writ Petition No.23276 of 2024**Between:**

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

.....Petitioners

AND

Syed Gayaz Chisty

.....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**

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| 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.23276 of 2024

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

Counsel for the Respondent: Sri Edukondalu Chandu

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? Cases Referred:

1. (2018) 16 SCC 187
2. 2023 SCC OnLine Del 2707 : (2023) 3 LLJ 404
3. 2008 SCC OnLine P & H 321 = (2008) 2 PLR 319
4. 2019 SCC OnLine Tri 100 : 2019 Lab IC 2050
5. 2023 SCC OnLine Del 2707 : (2023) 3 LLJ 404
6. 2023 SCC OnLine Bom 1265 = MANU/MH/2268/2023