

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

ORIGINAL APPLICATION NO.411 OF 2019

DISTRICT : MUMBAI

Smt. Surekha Baburao Kapile.)
Age : 48 Yrs., Occu.: Govt. Service as)
Senior Police Inspector, Yellow Gate Police)
Station, Near Carnac Bunder, Mumbai and)
Residing at 1, Police Officers Quarters,)
Opp. Podar School, Santacruz (W),)
Mumbai – 400 054.)...**Applicant**

Versus

1. The State of Maharashtra.)
Through Principal Secretary,)
Home Department, Mantralaya,)
Mumbai – 400 032.)
2. The State of Maharashtra.)
Through Principal Secretary,)
Public Health Department,)
Mantralaya, Mumbai – 400 032.)...**Respondents**

Mr. M.D. Lonkar with Mr. U.V. Bhosale, Advocates for Applicant.

Mrs. K.S. Gaikwad, Presenting Officer for Respondents.

CORAM : SHRI A.P. KURHEKAR, MEMBER-J

DATE : 24.12.2021

JUDGMENT

1. The challenge is to the orders dated 17.11.2018 thereby restricting the claim of medical reimbursement from Rs.8,29,756/- to Rs.5,65,867/-

and rejection of claim of Rs.2,17,901/- spent by the Applicant as an outdoor patient invoking jurisdiction of this Tribunal under Section 19 of the Administrative Tribunals Act, 1985.

2. Shortly stated facts giving rise to this O.A. are as under :-

The Applicant is serving as Senior Police Inspector on the establishment of Commissioner of Police, Mumbai. In the year 1995, she was diagnosed SLE (Systemic Lupus Erythematosus) as a result of which, she suffered severe damage to both kidneys and advised for kidney transplantation. Accordingly, she undergone Kidney transplantation in Jaslok Hospital, Mumbai and was an indoor patient from 10.06.2015 to 27.06.2015. Jaslok Hospital charged total amount of Rs.8,29,756/- towards Surgery, Operation Charges, Consultation Charges, Room Charges and other allied charges. After discharge from Hospital, she again took treatment from Doctors of Jaslok Hospital as an outdoor patient from time to time. She was required to spent on consultation fee, pathological test and medicine. As an outdoor patient, she has in all spent Rs.2,17,901/- in three spells. She accordingly submitted Bill of Rs.61,490/- (for the period from 27.06.2015 to 28.08.2015), Bill of Rs.66,051/- (for the period from 04.01.2016 to 19.03.2016 and Rs.90,360/- (for the period from 01.09.2015 to 31.12.2015). Accordingly she submitted claim for medical reimbursement of Rs.5,65,867/- spent as an indoor patient and for Rs.2,17,901/- spent on treatment as an outdoor patient. Since medical reimbursement claim was for exceeding Rs.3 Lakh, the claim was placed before Expert Committee headed by Deputy Director, Hospitals, Mumbai constituted in terms of G.R. dated 04.08.2014 issued by Public Health Department, Government of Maharashtra. The Committee was consisting Deputy Director, Hospitals as Chairperson and specialized Doctor in the subject from Jaslok Hospital, Mumbai and Grant Medical College, Mumbai as Members of the Committee. The said Committee constituted to assess

reasonableness of the medical reimbursement claim and to make recommendation for medical reimbursement of reasonable amount.

3. The Committee sanctioned medical reimbursement for kidney transplantation to the tune of Rs.5,65,867/- against the claim of Rs.8,29,756/-. It was accordingly paid to the Applicant. However, in so far as claim of medical reimbursement of Rs.2,17,901/- is concerned, the Committee rejected the same stating that it was expenditure incurred as an outdoor patient, and therefore, reimbursement is not permissible. As such, the claim of Rs.2,17,901/- has been rejected.

4. It is on the above background, the Applicant has filed the present O.A. challenging the orders dated 17.11.2018.

5. Shri M.D. Lonkar, learned Advocate for the Applicant sought to assail the impugned orders *inter-alia* contending that since Applicant has been treated for Kidney Transplantation in empanelled Hospital, she is entitled to 90% reimbursement of total actual expenditure incurred by her in terms of G.R. dated 19.03.2005. Thus, according to him, the reduction in amount is arbitrary and without any justification. He also referred to "Maharashtra State Service (Medical Attendance) Rules, 1961" (hereinafter referred to as 'Medical Attendance Rules of 1961' for brevity). He has further pointed out that deduction made by Committee in the bills submitted by the Applicant is without any rational and Applicant being Government servant is entitled to reimbursement of total expenditure incurred on Kidney Transplantation, which is one of the enlisted disease for taking treatment in empaneled Hospitals in terms of G.R. dated 19.03.2005. As regard expenditure of Rs.2,17,901/-, he urged that it was post operation treatment taken from same Hospital and ought to have been granted.

6. Per contra, Mrs. K.S. Gaikwad, learned Presenting Officer sought to justify the impugned orders. As regard bill of Rs.8,29,756/- incurred towards Kidney Transplantation as an indoor patient, she submits that

the bill being of more than 3 Lakh, it was placed before Special Committee and Committee determined reasonable amount for reimbursement would be 5,65,867/- and accordingly it is granted. As regard bill of Rs.2,17,901/- incurred as an outdoor patient, she submits that reimbursement of expenditure incurred in private hospital is reimbursable only where treatment is taken in emergency as an outdoor patient and expenditure incurred in private hospital as an outdoor patient is not permissible. She has further pointed out that in terms of 'Medical Attendance Rules of 1967' itself, a Government servant is required to consult Government Hospital and to take treatment from Government Hospital only. On this line of submission, she prayed to dismiss the O.A.

7. Thus, the issue is regarding reimbursement of medical expenditure of a Government servant as an indoor patient as well as an outdoor patient. Therefore, in this behalf, one needs to see 'Medical Attendance Rules of 1961'. Rule No.8 is material, which is as under :-

“शासकीय आणि अशासकीय रुग्णालयांमध्ये आंतररुग्ण म्हणून मोफत उपचार घेणा-या शासकीय कर्मचा-याने खर्च केलेल्या कोणत्याही रकमेची वैद्यकीय परिपूर्ती -

- (१) रुग्णाला विनामूल्य उपचाराचा हक्क राहिल.
- (२) रुग्णावर एखाद्या रुग्णालयात आंतररुग्ण म्हणून उपचार होणे जरूर आहे असे प्राधिकृत वैद्यकीय देखभाल देखभाल अधिका-यास वाटले तर त्याबाबतीत, जेथे आवश्यक त्या उपचाराच्या सोयी उपलब्ध असतील अशा शासकीय रुग्णालयात अशा उपचारासाठी रुग्णालयात पाठवण्यात यावे. अशा रुग्णालयात विनामूल्य उपचार मिळण्याचा रुग्णाला हक्क राहिल.
- (३) जेथे रुग्ण आजारी पडेल त्या जिल्ह्यातील शासकीय रुग्णालयात आवश्यक त्या सोयी उपलब्ध नसतील किंवा जेथे रुग्ण आजारी पडेल त्या ठिकाणी शासकीय रुग्णालयात जागा नसेल किंवा उक्त रुग्णालयाच्या कर्मचारी वर्गात ज्यादा ताण पडत असेल तर प्राधिकृत वैद्यकीय देखभाल अधिकारी संबंधित जिल्हा शल्यचिकित्सकाच्या पूर्व मान्यतेने आणि जिल्हा शल्यचिकित्सक हा स्वतःच प्राधिकृत वैद्यकीय देखभाल अधिकारी असेल त्याबाबतीत, संबंधित विभागाच्या (Division) आरोग्य उपसंचालकाच्या पूर्वमान्यतेने ही मान्यता लेखी घेण्यामुळे विलंब लागून रुग्णाच्या आरोग्याला धोका पोहचत नसेल तर ती लेखीच घेण्यात येईल. जेथे जरूर तो उपचार पुरवणे प्राधिकृत वैद्यकीय देखभाल अधिका-याच्या मते शक्य असेल अशा ठिकाणाच्या किंवा त्या ठिकाणाजवळच्या (मग ते ठिकाण जिल्हाबाहेरचे असले तरी चालेल) शासकीय किंवा अशासकीय रुग्णालयात रुग्णाला पाठविल.
- (४) शासकीय रुग्णालयात उपलब्ध नसणारे विशेष प्रकारचे उपचार पुरविणा-या अशासकीय रुग्णालयात एखाद्या रुग्णाला पाठवणे त्याच्या हिताच्या दृष्टीने अत्यंत आवश्यक आहे असे प्राधिकृत वैद्यकीय अधिका-यास वाटले तर त्याबाबतीत तो मुंबईमध्ये महाराष्ट्र शासनाच्या आरोग्य सेवा संचालकाच्या पूर्वमान्यतेने आणि मुफसल क्षेत्रात, संबंधित जिल्हाच्या जिल्हा शल्यचिकित्सकाच्या पूर्व मान्यतेने आणि जिल्हा शल्यचिकित्सक हा स्वतःच प्राधिकृत वैद्यकीय देखभाल अधिकारी असेल त्याबाबतीत, संबंधित

विभागाच्या आरोग्य सेवा उपसंचालकांच्या पूर्वमान्यतेने ही मान्यता लेखी घेण्यामुळे विलंब लागून रुग्णाच्या आरोग्याला धोका पोचत नसेल तर ती लेखीच घेण्यात येईल. विशेष उपचारांसाठी शासनाने मान्यता दिलेल्या सर्वात जवळच्या अशासकीय रुग्णालयातील रुग्णाला पाठवील.

- (५) पोटनियम (१), (२), (३) आणि (४) अन्वये उपचार विनामूल्य मिळण्याचा हक्क शासकीय कर्मचा-याला किंवा त्याच्या कुटुंबातील व्यक्तीला असेल त्या उपचारासाठी त्याने खर्च केलेल्या कोणत्याही रकमेची परिपूर्ती प्राधिकृत वैद्यकीय देखभाल अधिकार्याचे जरूर ते प्रमाणपत्र आणि त्याच्या मागणीच्या पृष्ठियर्थ प्रमाणके सादर केल्यानंतर, त्याला करण्यात येईल. परंतु प्राधिकृत वैद्यकीय देखभाल अधिका-यास वाजवी वाटेल एवढ्याच रकमेची शासन परिपूर्ती करील.”

8. At the same time, one need to take note of Note No.1 below Rule 5, which is as under :-

“टीप (१) - सामान्यता शासकीय कर्मचा-याने आणि त्यांच्या कुटुंबियाने शासकीय रुग्णालयातून उपचार घ्यावेत वरील नियमान्वये मान्यताप्राप्त असलेल्या व शासकीय रुग्णालयांमध्ये/दवाखान्यामध्ये उपचार करून घेण्यापूर्वी गंभीर प्रकरणे वगळता शासकीय कर्मचा-यांनी न चुकता त्यांच्या प्राधिकृत वैद्यकीय देखभाल अधिका-याचा सल्ला घ्यावा. शासन निर्णय दि. १९/१०/८३, १९/१०/८४, १९/१२/९९ यामध्ये नमूद केलेल्या २३ आजारांखेरीज एखाद्या गंभीर आजारांच्या बाबतीत जर त्यांना एखाद्या अशासकीय रुग्णालये/ दवाखाना इत्यादीमध्ये दाखल व्हायचे झाल्यास तसे त्यांच्या प्राधिकृत देखभाल अधिका-यास ताबडतोब कळविले पाहिजे.”

9. Furthermore, reference of Appendix-B of G.R. dated 19.03.2005 is relevant, whereby recognition is given to Jaslok Hospital for Kidney Transplantation in the matter of reimbursement of expenditure to a Government servant. As such, there is no denying that Kidney Transplantation is one of the enlisted disease for medical reimbursement and Jaslok Hospital is one of the empaneled and recognized hospital. However, at the same time, it should not be forgotten that as per the said G.R. dated 19.03.2005, the medical reimbursement empaneled Hospitals for the treatment of enlisted disease is reimbursable only in a case where emergency treatment for the said disease is taken in such recognized Hospital. This stipulation in G.R. dated 19.03.2005 is crucial. Suffice to say, reimbursement of medical expenditure is permissible to a Government servant only in case of emergency treatment and not as an outdoor treatment.

10. By G.R. dated 19.03.2005, the Government has fixed reimbursement charges for hospitalization period towards ICU, Room Charges for special room with toilet, General Ward, etc.

11. It is thus manifest from 'Medical Attendance Rules of 1961' that reimbursement to a Government servant for medical expenditure incurred in private empaneling Hospital is permissible only in case of emergency or where such facilities are not available in Government Hospital and certified accordingly. In the first place, a Government servant is required to take treatment from Government Hospitals. However, considering shortcoming in Government Hospitals, in emergency treatment as an indoor patient is admissible in private empanelled Hospital and for such reimbursement, 90% reimbursement is permissible in terms of G.R. dated 19.03.2005.

12. Now let us see reimbursement bill of Rs.8,29,756/- and the deductions made by the Committee. When Committee examined the matter, it recorded the minutes as under :-

“रुग्णलय वास्तव्य कालावधी रु. १०००/- व अतिदक्षता कक्ष रु. २०००/- दर दिवशी प्रमाणे देय, ऑपरेशन असिस्टंट चार्ज रु.१०,००० देय, ऑपरेशन थेटर चार्ज रु. १०००० देय, बंधिरीकरण चार्ज रु.१०००० देय, डॉ. व्हिजीट फी १३६० व १८१० ऐवजी प्रतिव्हिजी रु.५०० प्रमाणे देय, मॅन स्टोअर्स, स्टोअर फी, डायटेशन सी.एस. एस.डी., कॉमन डिपार्टमेंट वजाती, औषधाच्या यादीतील फ्रेश ऑलीव्हेल, क्लोहेक्स, कॅडिड माऊथ पॅट, बिसलेरी, डायजेन जेल पॅन्ट इ. वजाती.”

13. On the basis of recommendation made by the Committee, the expenditure was recalculated. Following is the Chart showing expenditure actually incurred by the Applicant and expenditure sanctioned by the Committee.

अ.क्र.	खर्चाचा तपशील	एकूण खर्च	साआविच्या वाजवी समितीने अनुज्ञेय केलेल्या खर्चाची रक्कम
१	ऑपरेशन चार्जेस	८७१००	८७१००
२	असिस्टंट चार्जेस	२१५००	१००००
३	ऑपरेशन थिएटर चार्ज	७४११०	१००००
४	अनेस्थेशिया	२९२००	१००००
५	पॅकेज	१५०००	१५०००
६	मॅन स्टोअर	१०५०८	०
७	सी.एस.एस.डी.	२४१५	०
८	कॉमन डिपार्टमेंट	८९००	०

९	अल्ट्रासोनोग्राफी, ए के डी/केटी आर, आयसीयु १९ फ्लोअर, हेमाटोलॉजी, बायोकेमिस्ट्री, इम्युनोलॉजी (१२६००+१२३३७०+३००+८७१२+३३१९५+३०३४)	१८१२११	१८१२११
१०	मायक्रोबायालॉजी	११४८५	११४८५
११	स्टोअर फी	६५७८१	०
१२	पॅथॉलॉजी, एक्स-रे, ईसीजी, ब्लड बँक	१०५७५	१०५७५
१३	डायटेशियन	१८०	०
एकूण "अ"		५१७९६५	३३५३७१
१४	बाथरूमसह स्वतंत्र कक्ष (४५०० X ७ दिवस) (रु.२००० प्रमाणे प्रतिदिन देय) (७५% देय)	४०५००	६७५०
१५	अतिदक्षता कक्ष (६५०० X ७ दिवस) (रु.२००० प्रमाणे दर दिवशी देय) (१००% देय)	४५५००	१४०००
एकूण "ब"		८६०००	२०७५०
१६	डॉ. व्हिजीट फी (प्रतिदिन ५०० रु. देय)	२५३००	(५०० X १५) + (२९० X १४) + ३९० ११९५०
एकूण "क"		२५३००	११९५०
१७	मेडिसिन चार्जेस (फ्रेश ऑलीव्हेल, क्लोहेक्स, कॅडिड माऊथ पेंट, बिसलेरी, डायजेन जेल पॅन्ट इ. वजाती)	२००४९१	१९७७९६
एकूण "ड"		२००४९१	१९७७९६
एकूण "अ ते ड"		८२९७५६	५६५८६७
औषधोपचारावरील प्रत्यक्ष खर्चाच्या १००% रक्कम देय			५६५८६७

14. Now let us see G.R. dated 19.03.2005, which holds the field in the matter of reimbursement of medical expenditure, which is as under :-

शासन निर्णय :-

शासन निर्णय, सार्वजनिक आरोग्य विभाग क.एमएजी १०९९/प्र.क.४०/आ.३, दि.२९ जुलै, १९९९ मध्ये खालीलप्रमाणे सुधारणा करण्याचा शासनाने निर्णय घेतला आहे :-

१) औषधोपचारावरील खर्चाची प्रतिपूर्ती :-

वेतनगटानुसार औषधोपचारावरील खर्चाच्या प्रतिपूर्तीची अनुज्ञेय रक्कम प्रस्तुत शासन निर्णयामधील तक्ता 'अ' मध्ये नमुद केली आहे. त्यामध्ये सुधारणा करण्यांत येउन आता वेतनश्रेणीचे वर्गीकरण न करता औषधोपचारावरील प्रत्यक्ष खर्चाच्या ९०% रक्कम सरसकट अनुज्ञेय राहिल.

२ खाजगी रुग्णालयातील वास्तव्यावरील खर्चाची प्रतिपूर्ती :-

प्रस्तुत शासन निर्णयामधील तक्ता 'ब' मध्ये खालीलप्रमाणे सुधारणा करण्यांत येत आहे :-

अ. क्र.	खाजगी रुग्णालयातील वास्तव्याचा प्रकार	वास्तव्यावरील खर्चाची प्रतिपुर्ती करावयाचा प्रचलित दर	वास्तव्यावरील खर्चाची प्रतिपुर्ती करावयाचा सुधारीत दर
१	जनरल वॉर्डच्या (सर्वसामान्य कक्ष)	वेतनाच्या टप्प्याप्रमाण ९०%, ८५%, ८०%	प्रत्यक्ष खर्चाच्या सरसकट ९५% अनुज्ञेय
२	जनरल वॉर्डच्या (सर्वसामान्य कक्षाच्या बाजूच्या बाथरूम नसलेला कक्ष)	प्रत्यक्ष खर्चाच्या ७५%	प्रत्यक्ष खर्चाच्या सरसकट ९५% अनुज्ञेय
३	बाथरूमसह स्वतंत्र कक्ष	प्रत्यक्ष खर्चाच्या ६५%	प्रत्यक्ष खर्चाच्या सरसकट ७५% अनुज्ञेय
४	बाथरूमसह डबल बेडेड कक्ष	प्रत्यक्ष खर्चाच्या ६०%	प्रत्यक्ष खर्चाच्या सरसकट ७५% अनुज्ञेय
५	बाथरूमसह वातानुकूलित कक्ष	प्रत्यक्ष खर्चाच्या ५०%	प्रत्यक्ष खर्चाच्या सरसकट ७५% अनुज्ञेय
६	अतिदक्षता कक्ष	प्रत्यक्ष खर्चाच्या ५०%	१००%

15. It is thus explicit from G.R. dated 19.03.2005 that for other than room charges and ICU charges, a Government servant is entitled to 90% reimbursement of the actual expenditure incurred by him. Whereas, in the present case, the Committee completely overlooked G.R. dated 19.03.2005 and deducted various amount, as seen from Item Nos.2, 3, 4, 14, 15, 16 and 17. All that, in minutes, what is stated that it is not reasonable. Material to note, no such specific guidelines or criteria is laid down for considering what is reasonable amount. As such, there is absolutely no basis or rational for cutting down the expenditure of various Items. The decision of the Committee is thus based upon their own assumption without any reasonable basis or Rules to that effect. On the contrary, by G.R. dated 19.03.2005, the Government made it clear that a Government servant would be entitled to 90% expenditure of total expenditure actually incurred by him. This being the situation, the decision of Committee to deduct expenditure is not at all sustainable. It is arbitrary and in defiance of G.R. dated 19.03.2005. Indeed, all medical reimbursement bills are being reimbursed in terms of the said G.R. Suffice to say, the decision of Special Committee cutting down the expenditure is totally unfounded, unjust, harsh and arbitrary.

16. Now turning to the expenditure incurred by the Applicant about Item Nos.16 and 17. In so far as Item No.16 is concerned, the Applicant

has spent Rs.40,500/- for independent room with washroom. But Committee has granted 6750/- only stating that payable rate is Rs.1000/- per day and reimbursement permissible is 75% only. Whereas, Applicant has paid 4500/- per day for 9 days which comes to 40500/-. Here material to note, as per G.R. dated 19.03.2005, for independent room with washroom, the permissible reimbursable amount is 75% of total expenditure. As such, in view of G.R. dated 19.03.2005, the Applicant was entitled to 75% of 45,500/-, which comes to 34125/- and decision of Committee granting 75% considering room rate 1000 per day is totally incorrect.

17. Similar is the situation about ICU charges. The Applicant was in ICU for 7 days and Hospital has charged 45500/-, but Committee has sanctioned Rs.14000/- considering rent Rs.2000 per day. Whereas, as per G.R. dated 19.03.2005, the permissible reimbursement amount is 100% actual expenditure for ICU charges. This being the position, the decision of Committee sanctioning Rs.14,000/- is totally incorrect and arbitrary.

18. Thus, in view of aforesaid discussion and in the light of G.R. dated 19.03.2005, the Applicant is entitled to 90% remuneration of total expenditure for other than ICU and special room. She is entitled for 100% reimbursement for ICU for 7 days at the rate of Rs.6500/- and 75% reimbursement for independent room for 9 days at the rate of charges actually paid by the Applicant.

19. This being the position, the Committee's decision deducting various expenditure is arbitrary, without any guidelines and totally in contravention of G.R. dated 19.03.2005. The Applicant is thus found entitled for reimbursement as calculated below :-

अ.क्र.	खर्चाचा तपशील	एकूण खर्च	अनुज्ञेय रक्कम
१	ऑपरेशन चार्जेस	८७१००	(९०%) ७८३९०

२	असिस्टेंट चार्जस	२१५००	(९०%)	१९३५०
३	ऑपरेशन थिएटर चार्ज	७४११०	(९०%)	६६६९९
४	अनेस्थेशिया	२९२००	(९०%)	२६२८०
५	पॅकेज	१५०००	(९०%)	१३५००
६	मेन स्टोर	१०५०८	(९०%)	९४५७
७	सि.एस.एस.डी.	२४१५	(९०%)	२१७४
८	कॉमन डिपार्टमेंट	८९००	(९०%)	८०१०
९	अल्ट्रासोनोग्राफी, ए के डी/केटी आर, आयसीयु १९ फ्लोर, हेमाटोलॉजी, बायोकेमिस्ट्री, इम्यूनोलॉजी (१२६००+१२३३७०+३००+८७१२+३३१९५+३०३४)	१८१२११	(९०%)	१६३०९०
१०	मायक्रोबायालॉजी	११४८५	(९०%)	१०३३६
११	स्टोर फी	६५७८१	(९०%)	५९२०३
१२	पॅथॉलॉजी, एक्स-रे, ईसीजी, ब्लड बँक	१०५७५	(९०%)	९५१८
१३	डायटेशियन	१८०	(९०%)	१६२
एकूण "अ"		५१७९६५		४६६१६९
१४	बाथरूमसह स्वतंत्र कक्ष (४५०० X ७ दिवस) (रु.२००० प्रमाणे प्रतिदिन देय) (७५% देय)	४०५००	(७५%)	३०३७५
१५	अतिदक्षता कक्ष (६५०० X ७ दिवस) (रु.२००० प्रमाणे दर दिवशी देय) (१००% देय)	४५५००	(१००%)	४५५००
एकूण "ब"		८६०००		७५८७५
१६	डॉ. व्हिजीट फी (प्रतिदिन ५०० रु. देय)	२५३००	(९०%)	२२७७०
एकूण "क"		२५३००		२२७७०
१७	मेडिसिन चार्जस (फ्रेश ऑलिव्हेल, क्लोहेक्स, कॅडिड माऊथ पेंट, बिसलेरी, डायजेन जेल पॅन्ट इ. वजाती)	२००४९१	(९०%)	१८०४४२
एकूण "ड"		२००४९१		१८०४४२
एकूण "अ ते ड"		८२९७५६		७४५२५६

20. As such, in view of above, the Applicant would be entitled to Rs.7,45,256/- towards reimbursement of the medical expenditure incurred as indoor patient in Jaslok Hospital for Kidney transplant.

21. Now turning to bill of Rs.2,17901/-. Admittedly, it was treatment taken by the Applicant as outdoor patient though from Jaslok Hospital, which seems to be post operation expenses. But fact remains that it was

an expenditure as outdoor patient and not as an indoor patient or as an emergency treatment for which reimbursement would be permissible. In this behalf, the Committee in its meeting dated 28.02.2018 examined the matter and took following decision.

“सदर प्रकरणी श्रीमती कपिले यांचे देयकासंदर्भातील कागदपत्रांची सविस्तर तपासणी केली असता, श्रीमती कपिले यांचे उपचार हे बाह्यरुग्ण स्वरूपाचे असून त्यामध्ये फॉलोअप व कन्सल्टेशन संदर्भातील देयके असल्याचे दिसून येते. तसेच डायलिसिस संदर्भातील देयकांचा यामध्ये समावेश असल्याचे दिसून येत नाही. सदर प्रकरणी कोणत्याही प्रकारची आकस्मिकता दिसून येत नाही. घेतलेले उपचार हे सर्वसाधारण स्वरूपाचे असल्याचे दिसून येते. सबब सध्याच्या शासन निर्णयानुसार व नियमानुसार अशा प्रकारचे बाह्यरुग्ण उपचारातवरील खर्च अनुज्ञेय नाहीत. त्या अनुषंगाने सचिव समितीने यापूर्वी घेतलेला निर्णय कायम ठेवून सदर प्रस्ताव अमान्य केला आहे.”

22. Thus, the Committee also observed that those expenditure cannot be treated as an emergency treatment expenditure and it was general in nature. It seems consist of consultation charges, medicine charges, etc. But admittedly, Applicant was not indoor patient in the said period nor there was any such emergency for not consulting Government Hospital.

23. Indeed, in terms of ‘Medical Attendance Rules of 1961’, a Government servant is first required to approach Government Hospital and to take treatment from Government Hospital. It is only in exceptional situation where emergency treatment is required, in that event only, reimbursement is permissible where patient is treated as an indoor patient. No provision or Rule permitting reimbursement of expenditure incurred as outdoor patient is brought to the notice of Tribunal. On the contrary, ‘Medical Attendance Rules of 1961’ clearly provides that such a treatment is required to be taken from Government Hospital and only in emergency cases, reimbursement from empaneled Hospital is permissible.

24. The learned Advocate for the Applicant sought to refer **(2018) 16 SCC 186 Shiva kant Jha Vs. Union of India**. In that case, the treatment to save life in emergency was taken from non-empaneled Hospital. It is in that context, the Hon’ble Supreme Court held that the claim for medical reimbursement of a Government servant cannot be

denied on technical ground for non-taking treatment from non-empaneled Hospital. As such, this authority is of little assistance to the Applicant in the present facts and circumstances.

25. Thus, totality of aforesaid discussion leads me to sum-up that the decision of Special Committee curtailing reimbursement from Rs.8,29,756/- to 5,65,867/- is totally unreasonable and arbitrary. It is indeed in contravention of G.R. dated 19.03.2005, which specifically provides for 90% reimbursement on the medical expenses and 75% reimbursement for special room and 100% reimbursement for ICU. However, the decision of Committee denying reimbursement of Rs.2,17,901/- as outdoor patient treatment needs no interference. The O.A, therefore, deserves to be allowed partly. Hence, the order.

ORDER

- (A) The Original Application is allowed partly.
- (B) The impugned order dated 17.11.2018 is quashed and set aside in following terms :-
 - (i) The Applicant is held entitled for reimbursement of Rs.7,42,256/- for her treatment taken as indoor patient and Respondents are directed to pay the difference to the Applicant within a month from today.
 - (ii) The decision of Government rejecting reimbursement of Rs.2,17,901/- towards treatment as an outdoor patient needs no interference.

(iii) The difference of amount be paid within a month, failing which Respondents would be liable to pay interest at the rate of 6% p.a. till actual date of payment.

(C) No order as to costs.

Sd/-

(A.P. KURHEKAR)
Member-J

Mumbai

Date : 24.12.2021

Dictation taken by :

S.K. Wamanse.

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