

**ARMED FORCES TRIBUNAL,
REGIONAL BENCH, KOLKATA**

OA No. 150 of 2018 with MA No.103 of 2018

Ex Sub Probir Kumar Bairagi ... Applicant
Versus
Union of India and Ors ... Respondents

For Applicant : Mr A K Dasgupta, Mr Alok Kumar Khan,
Advocates
For Respondents : Mr Ajay Chaubey, Advocate

CORAM

HON'BLE MS JUSTICE ANJANA MISHRA, MEMBER (J)
HON'BLE LT GEN BOBBY CHERIAN MATHEWS, MEMBER (A)

ORDER
6.5.2022

1. The OA has been filed praying to declare the Applicant entitled for reimbursement of the Medical Claim of Rs.25,847/- incurred for the treatment in Civil Hospital on emergency condition, alongwith interest.
2. The Applicant submits that he was enrolled in the Indian Army on 21.12.1988 and discharged from service on 31.12.2016. The Applicant submits that on 3.11.2014 at 2330 hours the Applicant suffered severe pain in his left chest and was referred to the Baroda Heart Institute and Research Centre and diagnosed as Severe Cardiac Blockage. The Applicant was discharged on 6.11.2014 and shifted to INHS Asvini, Mumbai. The Applicant submits that he incurred an expenditure of

Rs.25,847/- for the treatment at Civil Hospital, Baroda and Heart Institute and Research Centre. The Applicant submitted the claim on 28.2.2015 for reimbursement of the amount, duly recommended by the Unit. The Sr. Accounts Officer (M), PCDA (SC) Pune, vide letter dated 5.10.2015 raised certain objections against the claim of the Applicant and the same was returned, which was then forwarded by the EME School, Baroda to Military Hospital vide letter dated 2.12.2015 for clarifications. The Applicant submits that the medical bill was not reimbursed till his discharge from the service. Hence, he preferred 1st Appeal on 5.12.2017 and no reply has been received even after 9 months. The Applicant relies on the judgement dated 13.4.2018 of the Hon'ble Supreme Court of India in WP (C) No.694 of 2015 (Shiva Kant Jha vs UoI & Ors) in the matter of reimbursement of medical claim of the retired Government servants without delay. Hence, the Applicant filed the OA seeking the relief as prayed for.

3. The Respondents submit that the Applicant was enrolled in the Corps of EME) on 21.12.1988 and discharged from service on 31.12.2016 on fulfilling the terms of engagement under Item (I) (i) (a) of table annexed to Rule 13(3) of Army Rules 1954. The Applicant was paid DCRG and is in receipt of Service Pension vide PPO dated 6.1.2017. The Respondents submit that the Reimbursement of Medical Claim of the Applicant was submitted to Pr CDA(SC), Pune vide EME School Letter dated 2.12.2015 and the same was returned by the Pr CDA(SC), Pune

with some observations vide letter dated Nil Jul 2015. The EME School vide letter dated 2.12.2015 forwarded the claim alongwith related documents to MH, Baroda to clarify the observations raised by the Pr CDA (SC) and provide all requisite documents. Military Hospital, Baroda vide letter dated 12.2.2016 rectified the observations and returned the claim to EME School which was further re-submitted to Pr CDA(SC) on 19.2.2016 and the same was returned with other observations vide letter dated 26.4.2016. The claim was again resubmitted by EME Records to Pr CDA(SC), Pune vide letter dated 17.8.2016. However, the Respondents are not in a position to state whether the reimbursement of medical claim was admitted by Pr CDA(SC). The Respondents submit that the relief prayed for by the Applicant is not admissible and prays to dismiss the OA as it is devoid of merits.

4. We have heard the Learned Counsels of both the parties and perused the material placed on record.

5. After hearing the averments of the Learned Counsels and perusing the material available on record, the following facts emerge:

- (a) Applicant was enrolled in the Corps of EME on 21.12.1988 and discharged from service on 31.12.2016 on fulfilling Terms of Engagement under Item (I) (i) (a) of Table annexed to Rule 13(3) of Army Rules 1954. The Applicant was paid DCRG and is in receipt of Service Pension vide PPO dated 6.1.2017.

- (b) Reimbursement of Medical Claim of the Applicant was submitted to Pr CDA(SC) Pune vide EME School letter dated 2.12.2015 and the same was returned by the Pr CDA(SC) Pune with some observations vide letter dated Nil Jul 2015. The EME School vide letter dated 2.12.2015 forwarded the claim alongwith related documents to MH Baroda to clarify the observations raised by the Pr CDA (SC) and provide all requisite documents. Military Hospital, Baroda vide letter dated 12.2.2016 rectified the observations and returned the claim to EME School which was further re-submitted to Pr CDA(SC) on 19.2.2016 and the same was returned with other observations vide letter dated 26.4.2016. The claim was again resubmitted by EME Records to Pr CDA(SC) vide letter dated 17.8.2016.

6. Facts germane to this case are highlighter as under :-

(a) The Applicant suffered a serious heart condition on 03.11.2014 at Duty Station, Baroda and was referred by Military Hospital, Baroda first to SSG Hospital (Civil) and subsequently due to lack of requisite specialist facilities to Baroda Heart Institute and Research Centre (Annex A3).

(b) Angiography and other allied tests were done at Baroda Heart Institute and Research Centre and the Applicant was discharged on 06.11.2014. An expenditure of Rs.25,847/- was incurred by the Applicant on account of medical treatment.

(c) Reimbursement of medical expenditure claim dated 28.2.2015 for the aforesaid treatment was forwarded to PCDA (SC) vide EME School Letter No.50801/MO/FWT dated 02 Dec 2015.

(d) Above claim was returned by PCDA (SC) with observations vide Letter No.M/5/4/26633/MED CLAIM dated NIL July 2015 (Annex 5 of OA)

(e) All observations were rectified by Military Hospital, Baroda and EME School and the claim was resubmitted to PCDA (SC), Pune vide their Letter No.50801/MO/FWT dated 19 Feb 2016.

(f) Reimbursement claim was again returned by PCDA (SC) with further observations vide their Letter No. M/5/4/26633/MED CLAIM dated 26 Apr 2016.

(g) Medical Claim was again resubmitted to Principal CDA (SC) Pune vide EME School Baroda Letter No.50801/MO/FWT dated 17 Aug 2016 and the issue still remains unresolved.

7. The aforesaid chain of events in reimbursing the legitimate Medical Expenditure incurred by a JCO in Nov 2014 and which was forwarded for payment to PCDA (SC) in Dec 2015 with the payment yet to be made is a sad testimony to the total lack of empathy to the needs of Armed Forces Personnel by the Principal CDA (SC) in particular and all stake holders in general.

8. The Tribunal has viewed the above case very seriously and directs the Principal Controller of Defence Accounts (SC), Pune, to take immediate steps to resolve any further pending issues and release the amount along with interest @ 8% p.a. from the date of filing of this OA (OA filed on 20.09.2018) within 12 weeks of receipt of this Order. Commandant EME School, Baroda is directed to expeditiously resolve any procedural issues relating to this claim.

9. Order be issued Dasti.

LT GEN BOBBY CHERIAN MATHEWS
MEMBER (A)

JUSTICE ANJANA MISHRA
MEMBER (J)