

**IN THE ARMED FORCES TRIBUNAL, PRINCIPAL BENCH  
AT NEW DELHI**

O.A. No. 189/2010

Col. R.P.S. Brar .....Applicant

Versus

Union of India & Others .....Respondents

For applicant: Sh. Sanjay Ghosh with Sh. Yasir Rauf,  
Advocates.

For respondents: Ms. Jyoti Singh with Ms. Tinu Bajwa,  
Advocates.

**CORAM:**

**HON'BLE MR. JUSTICE A.K. MATHUR, CHAIRPERSON.  
HON'BLE LT. GEN. Z.U. SHAH, MEMBER.**

**ORDER  
12.08.2010**

1. Applicant by this application has prayed that respondents may be directed to reimburse the cost incurred by the applicant in getting his wife operated and treated for which the bills have already been submitted and respondents may be further directed to pay a sum of Rs.50,000/- in terms of the Cancer Medical Expenses Policy and award compensation of Rs.1Lac along with all money spent by him in Apollo Hospital.

2. Brief facts of the case are that the Applicant is a serving Colonel and his wife was suffering from Brain Tumour. He brought his wife to the Army Hospital (R&R), Delhi Cantt. and was examined by a competent Medical Doctor. But the applicant expressed his desire to have his wife operated at Apollo Hospital. Therefore, a Commandant gave a certificate that the applicant wanted his patient to get operated at Apollo Hospital. Applicant got the treatment done at Apollo Hospital and for which he incurred a sum of Rs.11,41,260/- approximately and therefore, applicant filed a petition before Hon'ble Delhi High Court for claiming reimbursement. The matter was considered and the Single Judge of Hon'ble High Court after considering the matter dismissed the petition and held that *I am constrained to hold that in the absence of any recommendation by Dr. Verma to the effect that petitioner's wife could be admitted in Civil Hospital, expenditure incurred by petitioner cannot be reimbursed under the aforesaid Rules.* Applicant then filed a contempt petition before Hon'ble High Court and a detailed reply was filed by the respondents and in their reply respondents had pointed out that regular Neurosurgeries were being undertaken at the Army

Hospital and they gave details how many operations were undertaken at the hospital. They gave statistics from May, 1998 to November, 1998 month wise and pointed out that in May, 1998, 34 operations were conducted, in June, 1998 : 47, July, 1998 : 40, August, 1998 : 32, September, 1998 : 44, October, 1998 : 39 and in November, 1998, 42 operations were conducted. It was further submitted that four basic essential equipments for Brain Tumor surgeries were available in the Army Hospital i.e. Operating Neuromicroscope, Biopolar Cautery, Suction Apparatus and Micro Neuro instruments. However, they frankly admitted that the facilities like DSA Lab, CT Scan, Doppler and X-Knife etc. were not available in the Hospital, but the same were being outsourced from civil hospitals. Thereafter, the contempt petition was dismissed. Applicant obtained certain information under RTI from respondents and again filed present application claiming reimbursement.

3. Reply was filed by the respondents and respondents have taken the position that all the four aforesaid basic essential equipments are available in the Army Hospital and other facilities

like DSA Lab, CT Scan, Doppler and X-Knife etc. are being outsourced.

4. Therefore, looking into the facts and circumstances of the case and the rules bearing on the subject which clearly contemplates that facilities which are not available or in case it is certified that treatment cannot be undertaken then alone treatment can be taken from Specialised Institutions. So far as the present case is concerned, the facility of Neurosurgery is available in Army Hospital (R&R), Delhi Cantt., therefore, no direction can be given to respondents to reimburse all the expenses incurred by the applicant for treatment of his wife. However, every one has right to life and right to seek best possible medical treatment, therefore, applicant with this object had taken his wife to Apollo Hospital for availing best treatment. So far as the question of reimbursement is concerned, it has to be done within four corners of the rules. In the present case, we have already mentioned that all the aforesaid four basic facilities were available in the Army Hospital and rest of the facilities were being outsourced, therefore, we cannot direct the respondents to reimburse the expenses incurred by applicant in Apollo Hospital. However, it is a hard

case and all that we can direct is, Government can consider the matter sympathetically that Army personnel on the rank of Colonel who had incurred these expenses for treatment of his wife with his limited resources. Therefore, the Government in welfare measure can consider the matter sympathetically. With these observations, application is dismissed. No order as to costs.

**A.K. MATHUR**  
**(Chairperson)**

**Z.U. Shah**  
**(Member)**

**New Delhi**  
**August 12, 2010.**