



2026:DHC:9213-DB



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IN THE HIGH COURT OF DELHI AT NEW DELHI

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*Reserved on: 31st August, 2026**Pronounced on: 15th October, 2026*

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CNR No. DLHC010273642020

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W.P.(C) 7596/2020

SH RAJINDER MANI DIG (RETD.)

FLAT NO. 905, TOWER-8

VALLEY VIEW ESTATE, GWAL PAHARI

GURUGRAM, HARYANA

.....PETITIONER

Through: Dr. S.S. Hooda, Mr. Aayushman
Aeron, Advs.
Ms. Aakanksha Kaul, *Amicus*
Curiae

Versus

1. UNION OF INDIA

THROUGH ITS SECRETARY

MINISTRY OF HEALTH & MEDICAL EDUCATION,

ROOM NO. 348 A-WING, NIRMAN BHAWAN, NEW DELHI-11

2.**DIRECTOR, CGHS,**

NIRMAN BHAVAN, NEW DELHI-11

3.**ADDG (HQ), CGHS,**

NIRMAN BHAVAN, NEW DELHI-11

.....RESPONDENTS



Through: Ms. Amirta Prakash, CGSC with
Mr. Siddharth Srivastava, Adv. for
UOI.

CORAM:
HON'BLE THE ACTING CHIEF JUSTICE
HON'BLE MR. JUSTICE AMIT SHARMA

JUDGMENT

AMIT SHARMA, J.

1. The present writ petition filed under Article 226 of the Constitution of India, 1950 seeks the following prayers: -

“1. Issue a Writ, order or direction in the nature of Certiorari and quash the impugned opinion of the technical standing committee dated 18.12.2019 on the basis of which order dated 29.1.2019 has been issued by CMO (R&H), CGHS (SZ) denying the full reimbursement to the petitioner. And

2. Issue a Writ, order or direction in the nature of Mandamus directing the respondents to reimburse the balance of Rs. 5,80,361+ 1247 totaling to Rs. 5,81,608/- of the medical expenses incurred by the petitioner on his medical treatment with interest. And

3. Award the costs of filing of this writ petition to the petitioner. And

4. Pass any other writ or order(S) as this Hon'ble court may deem fit and proper to meet the ends of justice.”



2. Relevant facts for adjudication of the present writ petition are as follows:-

a) The petitioner is a retired DIG from Border Security Force (hereinafter referred to as “**BSF**”) and a Central Government Health Scheme (hereinafter referred to as “**CGHS**”) beneficiary.

b) The petitioner was suffering from heart ailment, thus, he was undergoing treatment from Paras Hospital, Gurgaon. On 03.06.2019, Senior Consultant of the said hospital opined that the petitioner should undergo a Minimal Invasive Cardio-vascular Surgery (hereinafter referred to as “**MICS**”). Subsequently on 27.06.2019, the petitioner approached CGHS Dispensary, Sector 55, Gurgaon, where his case was referred to cardiologist, Cardiothoracic and Vascular Surgery (hereinafter referred to as “**CTVS**”) Surgeon at any CGHS approved Centre.

c) Allegedly, the best MICS was available in Apollo Hospital, Bangalore. Thus, the petitioner went to the said Hospital to take opinion, whether to go for open heart surgery or for MICS. Doctors at the said Hospital opined that the petitioner should go for MICS. Accordingly, the petitioner contacted CGHS authorities for obtaining prior permission. However, the authorities informed that they have to approach CGHS authorities in Delhi for the permission.



- d)** On 06.07.2019, before the petitioner could obtain permission from CGHS authorities at Delhi, he developed acute chest pain and on the advice of the Doctors at the said Hospital, the petitioner got admitted in the Apollo Hospital, Bangalore on 'emergency basis'.
- e)** On 10.07.2019, the petitioner was operated for MICS after paying in full for the said surgery and he was discharged on 16.07.2019. A total of Rs. 7,81,698/- was spent on the petitioner's treatment on account of not submitting prior permission from the respondents/CGHS.
- f)** On 04.09.2019, petitioner submitted his Medical bills along with the requisite documents to CMO, CGHS Dispensary, Sector-55, Gurgaon, under CGHS, for reimbursement on account of his treatment done in the Apollo Hospital, Bangalore of Rs. 7,81,698/-. On 21.10.2019, he was reimbursed with Rs. 2,00,090/- being CGHS approved rates for Coronary Artery Bypass Grafting (hereinafter referred to as "**CABG**"). Subsequently, on 14.11.2019, petitioner preferred a representation for full reimbursement of his medical claim to the Director General CGHS, Director CGHS, Additional Director (South Zone) CGHS, CMO CGHS Dispensary, Sector 56, Gurgaon.
- g)** On 29.01.2020, petitioner received a reply from the respondents stating that a technical committee meeting convened on 18.12.2019 and



the same opined that full reimbursement is not justified under any of the clauses of OM dated 06.06.2018. Hence, the present petition.

3. Learned Counsel for the petitioner, in support of the present petition made the following submissions:-

i) The factum of petitioner's treatment is undisputed and the reimbursement of the medical bills has been denied on technical grounds which is against the law laid down by the Hon'ble Supreme Court on 13.04.2018 in W.P.(C) 694/2015 titled as "**Shiva Kant Jha v. UOI**".

ii) The treatment availed by the petitioner from Apollo Hospital, Bangalore is a duly empaneled hospital with CGHS and the petitioner has got himself treated from it as per the advice of the specialist doctors.

iii) The Petitioner was in Bengaluru while he was admitted on 'emergency basis' for MICS and the required permission was to be obtained from Delhi. Further, the Petitioner being aged about 70 years and of ill health, prevented him from obtaining such permissions. Even otherwise, the policy allows the CGHS holder to get treatment/ surgery in cases of emergency without completing prior documentary requisitions, as in the cases of cardiac ailment the patient must rush for immediate treatment.



iv) In response to the petitioner's letter seeking reimbursement of his medical claims, the respondents did not assign a single reason for not reimbursing the said claims.

v) The guidelines laid down in OM dated 06.06.2018 are merely indicative and not exhaustive in nature. Further, doctors have given emergency certificate which presupposes that the petitioner was severely incapacitated and he was hospitalized for a prolonged period. Under such conditions the case of the petitioner shall be covered for full reimbursement as in terms of para 2(a)(i) of the OM dated 06.06.2018, as even a treatment from a non-empanelled hospital under emergency is covered.

4. Refuting the submissions made on behalf of the petitioner, learned counsel for the respondents made the following submissions: -

i) Petitioner's treatment was going on in the CGHS empanelled- Paras Hospital. In the said Hospital, he was advised for CABG, a CGHS listed procedure, however subsequently, he was suggested MICS as it was a better option, though it was not a CGHS listed procedure. Permission in such unlisted cases is considered by CGHS in Technical consultation with expert Committee for justification of the use of said treatment. Petitioner, without following the due process for such permission, voluntarily decided to undergo MICS in the Apollo Hospital, Bangalore.



ii) MICS being a novel technique and an unlisted procedure in CGHS, petitioner's case was sent to the technical committee and the said committee opined that *"Mr. Rajinder Mani 68/M, s/p PTCA + S (2019) to RCA underwent MICS CABG on 10.7.2019. After going through records, we do not find any justification favouring the MICS approach over median sternotomy. And hence patient may be reimbursed in line of existing CGHS codes of open/conventional CABG"*. Hence, the Medical Reimbursement Claim (hereinafter referred to as **"MRC"**) was calculated at CGHS package rate for coronary artery bypass grafting as per rate for a NABH accredited centre with 15% added as per the patient's entitlement for private ward.

iii) After petitioner's representation dated 14.11.2019, the matter was put before the technical committee on 18.12.2019 for examination and the said committee consisting of experienced doctors opined that the petitioner's case does not fall under any of the clauses for full reimbursement in terms of OM dated 06.06.2018 and *vide* letter dated 29.01.2020, same was communicated to the petitioner. As per the said OM, for a case to be considered for full reimbursement, it must fall under any of the following category:-

"i) Treatment was obtained in a private unrecognized hospital under emergency and the patient was admitted by others when the beneficiary was unconscious or severely incapacitated and was hospitalized for a prolonged period."



ii) Treatment was obtained in a private unrecognized hospital under emergency aid. was admitted for prolonged period for treatment of Head Injury, Coma, Septicemia, Multi-organ failure, etc.

iii) Treatment was obtained in a private unrecognized hospital under emergency for treatment of advanced malignancy.

iv) Treatment was taken under emergency in higher type of accommodation. as. rooms as per his/her entitlement are not available during that period.

v) Treatment was taken in higher type of accommodation under specific conditions for isolation of patients to avoid contacting infections.

vi) Treatment was obtained in a private unrecognized hospital under emergency when there is a strike in Govt. hospitals.

vii) Treatment was obtained in a private unrecognized hospital under emergency while on official tour to non-CGHS covered area”.

iv) After filing of the present petition, Technical Committee again met on 15.12.2020 to reconsider the petitioner’s case and the said committee concluded that MICS was a procedure, which is not listed with CGHS and there was neither any justification provided for not choosing the conventional mode i.e. CABG nor did the Petitioner took any prior permission for undergoing MICS and therefore, he was reimbursed with the amount which is admissible for CABG, as per the guidelines of CGHS. Further, petitioner’s discharge summary clearly states that he was admitted



in a stable condition and not in emergency for MICS. Moreover, as per records, petitioner was admitted on 08.07.2019, operated on 10.07.2019 and discharged on 16.07.2019, thus, an admission for 9 days cannot be termed as “prolonged period”, in terms of para 2(a)(i) of the OM dated 06.06.2018.

v) **Shiva Kant Jha (Supra)** case cannot be equated with the present case, as Hon’ble Supreme Court in said Judgment confined the order for payment of balance amount only in that particular case.

5. Refuting the stand taken by the respondents, learned counsel for the petitioner submitted that:-

i) Respondents, as a result of an afterthought, cannot justify their acts by subsequently obtaining a desired opinion dated 15.12.2020 from the body of experts as the same has been obtained after filing of the instant Writ petition and Notice being issued. Further, respondent’s Justification *vide* additional affidavit dated 16.12.2022 that a sum of Rs. 2,00,090 was reimbursed at the rate of conventional CABG package rates since that was the only approved procedure, has also come after filing of the instant writ petition. In **Mohinder Singh Gill v. Chief Election Commr.**¹, Hon’ble Supreme Court held that the respondents therein cannot justify any action by way of an Counter Affidavit which is not borne out from the records as existed on the date of filing of the petition.

¹ (1978) 1 SCC 405



ii) As far as the respondent's contention of not taking prior approval and being admitted in stable condition is concerned, it is a matter of record that the procedure undergone was in emergency circumstances. The same is also attested by the Apollo Hospital, Bangalore *vide* its emergency certificate dated 16.07.2019. Thus, once the petitioner was admitted on emergency basis, there cannot be any question of prior approval.

iii) Further, the argument that there is no justification for not choosing CABG is concerned, it needs to be kept in mind that any patient has a little scope to decide the nature of treatment to be undergone. This Court on 10.05.2023 in ***Union of India v. Joginder Singh***, WP(C) No. 10684 of 2022, held that:

“13. It needs to be kept in perspective that patient has a little scope to decide the nature of treatment and merely looks forward to an expert guidance/treatment for relieving him from immense pain and suffering. The patient in distress is not in a position to go against the specialist medical advice for surgery in emergency.”

iv) In the aforesaid case, this Court reiterated that the test remains whether the claimant had actually undertaken the treatment in emergent condition as advised and if the same is supported by records, as



preservation of human life is of paramount importance. In the said case, Union of India had contended that the claimant therein underwent procedure at a non-empanelled hospital and therefore not entitled for full reimbursement. However, applying the aforesaid test, this Court upheld the decision of the Central Administrative Tribunal in allowing full reimbursement to the claimant therein. Instant case of the petitioner is even better as he underwent treatment at an empanelled hospital.

6. Keeping in view the nature of dispute, this Court *vide* order dated 26.07.2023 appointed Ms. Aakanksha Kaul, Advocate as an *Amicus Curiae* in the present case. She submits that:-

i) Rates specified under CGHS are on the basis of the cost for a conventional CABG. However, the petitioner on medical advice underwent MICS at an empanelled hospital, which is substantially more expensive than a conventional CABG. The Respondents do not dispute the fact that the petitioner was required to undergo treatment. In these circumstances, an expert committee could have considered the issue of whether the approved rates for CABG ought to be revised in view of medical advancement as Para 3 of the OM dated 06.06.2018 itself refers to existence of several expert committees.

ii) The two categories referred in OM dated 06.06.2018 *i.e.* High Powered Committee (hereinafter referred to as “**HPC**”) and Non-HPC apply only where a relaxation in the rules is required. Assuming that the



case of the petitioner required a relaxation of the rules, then his case would fall in the HPC category. Admittedly, the Apollo Hospital, Bangalore is an empanelled hospital. Thus, the questions of whether the petitioner was admitted into the hospital under emergency and for a prolonged period are not relevant. Such a question would have arisen only if the hospital in question was not empanelled and thus, the case of the petitioner may have fallen within Para 2 (a)(ii) of the said OM, being a Non-HPC case.

iii) The respondents while submitting that the OM dated 06.06.2018 does not apply to the petitioner have referred to Non-HPC cases only and not HPC cases. An HPC in terms of Para 2(b) of the said OM could have considered whether the petitioner is entitled for relaxation of rules or whether the present circumstances amount to special circumstances entitling the petitioner to full reimbursement. However, despite the respondents having found that the case of the petitioner does not fall within the category of non-HPC cases, the case of the petitioner appears to have been considered by two Technical Committees which cannot be described as 'HPC' in terms of the said OM.

iv) Pertinently, as per OM dated 28.06.2024, 27.12.2023 and 05.10.2016, the CGHS has provisions to grant ex-post facto approval and reimbursement related to unlisted treatment procedures/ investigations/ implants.



v) Further, with respect to question of whether the petitioner was admitted under emergency, this Court in **Joginder Singh (Supra)** and **Basant Dabas v. Govt. Of India & Ors.**², has deemed an emergency certificate issued by the relevant hospital to be enough evidence to show that the claimant was admitted in emergency. Further, this Court in **Joginder Singh (Supra)** has stated that merely because the patient was conscious, awake, and oriented at time of admission, it cannot lead to an inference that his claim of being admitted in emergency is false.

vi) Moreover, with respect to respondent's submission that the petitioner was not admitted for 'prolonged period', it relevant to note that what amounts to a 'prolonged period' has not been explained in the OM dated 06.06.2018. However, from the records, it appears that the petitioner was admitted for 11-12 days.

7. Heard respective counsels for the parties and perused the records.

8. Before proceeding further, reference should be made to the judgment of the Hon'ble Supreme Court in **Shiva Kant Jha (supra)**. In the said case, the petitioner therein was a CGHS beneficiary (retired pensioner) having a valid CGHS card. He had submitted his medical bills under CGHS for reimbursement on account of his treatment done in Fortis Escorts Hospital for a sum of Rs. 9,86,343/- for his cardiac ailment

² 2019 SCC OnLine Del 9545



involving implant of CRT-D device and another bill amounting to Rs. 3,98,097/- for his treatment at Jaslok Hospital, Mumbai for cerebral stroke and paralytic attack. The petitioner's first bill with regard to Fortis Escorts Hospital was considered by the Technical Standing Committee and the same was rejected without assigning him any reason. The case was again considered by the Standing Committee and the same was again rejected on the ground that CRT-D implant was not required. Aggrieved with the same, the said petitioner filed a representation before the Secretary, Ministry of Health & Family Welfare and the same was again considered by the Standing Committee only to be rejected for the reason that "*Prior approval for such device implant was not sought*". Finally, in his fourth attempt, the said petitioner approached the Director General, CGHS and subsequently, the Government credited an amount of Rs. 4,90,000/- out of Rs. 9,86,343/- in the petitioner's bank account. With respect to second set of bill of the Jaslok Hospital, the amount was curtailed to Rs. 94,885/- for his claim of Rs. 3,98,097/-. The Hon'ble Supreme Court after analysing the reciprocal arguments of the parties, observed and held as under:

"9) Further, the writ petitioner was admitted in emergency condition with complaint of breathlessness on 11.11.2013 in Fortis Escorts Health Institute, which was a non-empanelled hospital at the relevant time. He underwent angiography on 12.11.2013 which revealed diffused disease in left anterior descending coronary artery 50-60%. He had been implanted the CRT-D device (Combo) as part of cardiac resynchronization therapy (CRT) on 12.11.2013. The hospital charged an amount of Rs. 11,56,293/- for the said treatment, out of which, an amount of Rs. 10,70,000/- was for the cost of the unlisted cardiac implant (CRT-D) and an amount of Rs. 3,19,950/- was paid by the Insurance company directly to the hospital.



10) A Special Technical Committee meeting was held on 29.04.2014 to consider the case of the petitioner. However, on examining the same, the Committee did not find any justification for the implant of CRT-D device of the petitioner. On a further request by the petitioner, the Special Technical Committee again did not find any justification for the implant of CRT-D device on 10.07.2014. On a request for reconsideration by the petitioner, on 15.01.2015, the case of the petitioner was again reconsidered by the Special Technical Committee which denied the claim of CRT-D.

11) The total expenditure incurred by the petitioner towards his medical treatment at Fortis Escorts Heart Hospital, Delhi was Rs. 9,86,343/- and at Jaslok Hospital, Mumbai was Rs. 3,98,097/-, hence, the total amount claimed by the petitioner was Rs. 13,84,440/-. Though the Special Technical Committee did not find the implant justified, the competent authority, keeping in view the emergency nature of the case of the petitioner, approved the reimbursement of implant as per AIIMS rate. Therefore, out of the total amount i.e., Rs. 13,84,440/-, an amount of Rs. 4,90,000/- was paid to the petitioner on the direction of the authority and Rs. 94,885/- for the treatment at Jaslok Hospital. As per this Court's direction dated 01.02.2016, a sum of Rs. 3,00,000/- has also been paid by the respondent. Hence, a sum of Rs. 4,99,555/- is the claim of the petitioner in the present writ petition.

12) With a view to provide the medical facility to the retired/serving CGHS beneficiaries, the government has empanelled a large number of hospitals on CGHS panel, however, the rates charged for such facility shall be only at the CGHS rates and, hence, the same are paid as per the procedure. Though the respondent-State has pleaded that the CGHS has to deal with large number of such retired beneficiaries and if the petitioner is compensated beyond the policy, it would have large scale ramification as none would follow the procedure to approach the empanelled hospitals and would rather choose private hospital as per their own free will. It cannot be ignored



that such private hospitals raise exorbitant bills subjecting the patient to various tests, procedures and treatment which may not be necessary at all times.

13) It is a settled legal position that the Government employee during his life time 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 specialized 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 the CGHS have denied the grant of medical reimbursement in full to the petitioner forcing him to approach this Court.

14) 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 above said 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 the CGHS rates and that too after following a proper procedure given in the Circulars issued on time to time by the concerned Ministry, 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.

15) In the present view of the matter, we are of the considered opinion that the 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 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.

16) Further, with regard to the slow and tardy pace of disposal of MRC by the CGHS in case of pensioner beneficiaries and the unnecessary harassment meted out to pensioners who are senior citizens, affecting them mentally, physically and financially, we are of the opinion that all such claims shall be attended by a Secretary level High Powered Committee in the concerned Ministry which shall meet every month for quick disposal of such cases. We, hereby, direct the concerned Ministry to device a Committee for grievance redressal of the retired pensioners consisting of Special Directorate General, Directorate General,



2 (two) Additional Directors and 1 (one) Specialist in the field which shall ensure timely and hassle free disposal of the claims within a period of 7 (seven) days. We further direct the concerned Ministry to take steps to form the Committee as expeditiously as possible. Further, the above exercise would be futile if the delay occasioned at the very initial stage, i.e., after submitting the relevant claim papers to the CMO-I/C, therefore, we are of the opinion that there shall be a timeframe for finalization and disbursement of the claim amounts of pensioners. In this view, we are of the opinion that after submitting the relevant papers for claim by a pensioner, the same shall be reimbursed within a period of 1 (one) month.”

(emphasis supplied)

9. Following the aforesaid *ratio*, learned Co-ordinate Division Bench of this Court in **Union of India v. Shri. Joginder Singh**³, observed and held as under:-

“12. The medical claim for treatment undertaken in emergency should not be denied for reimbursement merely because the hospital is not empanelled. The test remains whether the claimant had actually undertaken the treatment in emergent condition as advised and if the same is supported by record. Preservation of human life is of paramount importance. The State is under an obligation to ensure timely medical treatment to a person in need of such treatment and a negation of the same would be a violation of Article 21 of the Constitution of India. Administrative action should be just on test of fair play and reasonableness. Accordingly, keeping into consideration the constitutional values, the executive instructions need to be applied than rejecting the claim on technical ground of undertaking treatment in a nonempanelled hospital, since the CGHS/State is responsible to ensure proper medical treatment in an emergent condition and further cannot escape the liability,

³ 2023:DHC:3138-DB



if the treatment undertaken is genuine. Any denial of claim by the authorities in such cases only adds to the misery of the Government servant by further forcing him to resort to Court of law.”

10. It is further pertinent to note that in pursuance to the judgment rendered by the Hon’ble Supreme Court in **Shiva Kant Jha (supra)**, Government of India, Ministry of Health and Welfare came out with an OM dated 6th June, 2018. The said O.M. has been relied upon by the respondents in the present case to submit that the case for consideration of full reimbursement should fall in the categories mentioned therein. However, it is the contention of learned *Amicus Curiae* that the categories which have been relied upon by the respondents would fall with respect to the cases mentioned in para-2(a) of the said OM *i.e.* titled as “*Full reimbursement-Non-HPC*” cases. A closer look at para-2(b) of the said OM would reflect that the case of the petitioner would fall in the said category, relevant portion of the same reads as under:

“2. Full reimbursement case /Cases for relaxation of Rules

As per the new guidelines they fall into two categories

- (a) Full reimbursement - Non-HPC (Non- High Power Committee) cases
- (b) Full reimbursement - HPC (High Power Committee) cases

a) Full reimbursement - Non-HPC cases

The following cases fall under this category;

- i) Treatment was obtained in a private unrecognized hospital under emergency and the patient was admitted by others when the beneficiary was unconscious or severely incapacitated and was hospitalized for a prolonged period.



- ii) Treatment was obtained in a private unrecognized hospital under emergency aid. was admitted for prolonged period for treatment of Head Injury, Coma, Septicemia, Multi-organ failure, etc.
- iii) Treatment was obtained in a private unrecognized hospital under emergency for treatment of advanced malignancy.
- iv) Treatment was taken under emergency in higher type of accommodation. as. rooms as per his/her entitlement are not available during that period.
- v) Treatment was taken in higher type of accommodation under specific conditions for isolation of patients to avoid contacting infections.
- vi) Treatment was obtained in a private unrecognized hospital under emergency when there is a strike in Govt. hospitals.
- vii) Treatment was obtained in a private unrecognized hospital under emergency while on official tour to non-CGHS covered area.

Although the new OM has not mentioned about STC recommendation, it is advisable to have expert Committee meetings under the Chairperson of Addl. DGHS (as in the case' of. earlier STC meetings) in respect of item Nos. i), ii),ii) and v) before arriving at a decision. The conditions mentioned at Nos. iv),vi) and vii) are administrative in nature and do not required meeting of expert committees and may be recommended by Addl. Director, if conditions are satisfied.

In Delhi the expert committee meetings shall be organized by respective CMO(R&H) and by AD(R&H) in case of claims of serving employees of Delhi. Such meetings in respect of other cities shall be organized by Sr. CMO in the office of Addl. DDG(HQ).

The requests for full reimbursement as examined by Additional Director (HQ)/ Addl. DDG(HQ), in consultation with expert committee meetings, wherever deemed necessary and recommended for full reimbursement shall be submitted to Director, CGHS and concurrence of IFD may be obtained after approval of AS&DG, CGHS before the seeking the approval of Secretary for reimbursement in excess of CGHS rates.



If the above criteria are not satisfied (including the regrets by expert committees) the requests may be regretted by Addl. Director of concerned City, with a covering letter explaining the reasons and referring to the concerned OM.

In case there is a representation to consider as a special case then only it may be placed before the High Power Committee.

Addl. Directors shall prepare a self-contained note giving details of case and submit the files with relevant documents to Director, CGHS though AD(HQ) /Addl. DDG(HQ)

If the proposal is approved by AS & DG, CGHS, concurrence of IFD and approval of Secretary, Health & Family Welfare are solicited for reimbursement in excess of approved rates.

Full reimbursement- HPC cases

The Composition of High Power Committee, shall be as under:

1. Special Director General Chairperson
2. Directorate General, CGHS or his Nominee... Member
3. Additional Director, CGHS(HQ) I Addl. DDG(HQ) CGHS ...Member
4. Addl. Director, CGHS(R&H) ...Member Secretary
5. One Government Specialist (of concerned Specialty) ...Member

The High Powered Committee shall consider the representations of only those CGHS beneficiaries having a valid CGHS Card.

The High Powered Committee shall consider representations received from CGHS beneficiaries holding valid CGHS cards only at the time treatment, in respect of the following conditions.

1. Approval for air-fare with or without attendant on the advice of treating doctor for treatment in another city even though he is not eligible for air travel / treatment facilities are available in city of residence.



2. Representations from CGHS beneficiaries seeking full reimbursements under special Circumstances.
3. Relaxation of Rules

High Powered Committee shall meet once in a month and action on the decisions taken shall be completed within seven days of meeting, with the concurrence of the IFD, wherever, it is deemed necessary.

Addl. Directors shall submit the files with relevant documents to the AD(HQ) / Addl. DDG(HQ) for placing the representations before High Power Committee.

AD(R&H) shall be Member Secretary, who shall with the help of Sr. CMO of the Office of Addl. DDG(HQ) shall issue meeting notices including notices to concerned Govt. Specialists and organize meeting for the Meetings of High Power Committee.

The requests received upto the 15 of the month shall be placed before the Committee. If the High Power Committee does not recommend the regret letters shall be issued explaining the reasons.

If the high Power Committee recommends full reimbursement/relaxation of rules, Concurrence of IFD and approval of Secretary (H&FW) shall be obtained with 7 days.

3. In Addition there are expert committees to consider several cases.

Expert Committee meetings for Consideration of Liver Transplant cases, Bariatric Surgery,

Bone-marrow / Stem Cell Transplant, Justification of treatment /Implants in selected cases shall continue as before.

Standing Committee meetings for Cochlear Implant shall continue as before.



Expert Committee meeting for approval of Drugs, etc., shall continue.”

11. In the present case, admittedly the Apollo Hospital, Bangalore, is an empanelled hospital. The only ground taken for non-full reimbursement of the expenses incurred by the petitioner is that the procedure which was followed was not listed with the CGHS and there was no justification for not choosing the conventional mode, *i.e.*, CABG. It is also contended that the petitioner did not take any prior permission for undergoing MICS. The respondents are relying on the opinion of the Technical Committee which opined that there was no justification to favour the MICS approach over Median Sternotomy.

12. The representation of the petitioner dated 14th November, 2019 was rejected by communication dated 29th January, 2020 by the Office of the Additional Director, CGHS, South Zone, Sector-8, R.K. Puram, New Delhi-110022, which reads as under:

**ANNEXURE-P-8**

F. NO. 1906/2019/DEL/SZ/D92
OFFICE OF THE ADDITIONAL DIRECTOR,
CGHS, SOUTH ZONE, SECTOR-8, R.K. PURAM
NEW DELHI-110022

Dated: 29.01.2020

To,

SH. RAJINDER MANI
FLAT NO. 905, TOWER-8
VALLEY VIEW ESTATE, GWAL PAHARI,
GURGAON (HARYANA)-122003

Subject: Regret of your MRC No. 1906/2019/DEL/SZ/D92

Sir,

This office is in receipt of your representation for full reimbursement for the above mentioned claim.

A Technical Standing Committee meeting convened on 18.12.2020 opined that, full reimbursement is not justified under any of the clauses of OM No. 215025/51/2018/DIR/CGHS/EHS, dated 06.06.2018. (Minutes of the meeting attached).

Hence this office regrets to inform you that no further reimbursement is admissible for this claim.

This issues with the approval of the Additional Director,
CGHS (South Zone), New Delhi

Sd/- 29.01.2020
CMO (R&H)
CGHS) SZ

13. The minutes of meeting dated 18th December, 2019 referred above further reads as under:

Signature Not Verified

Signed By: SHIWANI
NEGI
Signing Date: 16.10.2026
18.00

W.P.(C) 7596/2020

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F. NO. 1906/2019/DEL/SZ/D92
OFFICE OF THE ADDITIONAL DIRECTOR,
CGHS, SOUTH ZONE, SECTOR-8, R.K. PURAM
NEW DELHI-110022

Date: 18.12.2019

MINUTES OF THE MEETING

A Technical Standing Committee meeting was held under the chairmanship of Addl. DG (ARG) on 18.12.2019 at 3.30 PM at Room No. 342 B, A-wing Nirman Bhawan, New Delhi for justification of full reimbursement under relaxation of rules in patient Sh. Rajinder Mani a case of IHD with TVD who underwent MICS CABG + FVH (Grafts) at IP Apollo Hospital (non empanelled).

The Committee went through the available documents in the file and of the opinion that:

Full reimbursement is not justified in this case since it does not fall under any of the clauses for full reimbursement as per OM no. 215025/51/2018/DIR/CGHS/EHS dated 06.06.2018

Sd/-

Dr. Anulbhav Gupta
CTUS
SJH, Hospital, New Delhi

Dr.

Cardiology
Dr. RML Hospital, New Delhi

Sd/-

Dr. Milind

Note

Prof CTVS,
AIIMS Hospital New Delhi

Sd/-18.12.2019

Dr.

Cardiology
GB Pant Hospital, New Delhi

Sd/-

Dr. Sanjay Jain
Director, CGHS

Sd/-18.12.2019

Dr. A.K. Gadpayle
Additional DGHS
Chairman

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14. The respondents have also placed on record another set of minutes of meetings dated 15th December, 2020, which is reproduced as under:

File NO. 1906/2019/DEL/SZ/D92
Office of the Additional Director
CGHS, South Zone, Sector-8, R.K.Puram
New Delhi- 110022

Date: 15/12/2020

Minutes of the Meeting

A Technical Standing Committee meeting was held under the chairmanship of AddLDG (KTB) on 15/12/2020 at 3.00 PM at Room No. 343 B, A- Wing, Nirman Bhawan, New Delhi, for justification of procedure MICS CABG + EVH (4 Grafts) in r/o Sh. Rajendra Mani a case of IHD.

The Committee went through the available documents in the file and of the opinion that,

Mr Rajendra Mani 68y/Male. S/P- PTCA + S → 2019 (RCA) underwent MICS CABG on 10/7/2019. After going through records, we do not find any justification favouring the MICS approach over median sternotomy. And hence - patient may be reimbursed in line of existing CGHS rates of open /conventional CABG.

Dr.
CTVS,
AIIMS, Hospital, New Delhi

Dr.
CTVS,
Dr.RML, Hospital, New Delhi

Dr. SUDESH KOMAR
CTVS, ASSISTANT PROFESSOR
Safdarjung, Hospital, New Delhi

Dr. PALASH ANAND (J) डॉ. पलश अणवर जी.
M.S., MCh (CT), AIIMS, New Delhi (ह. र. त. र. वि.)
Associate Professor, अति-आचार्य
Department of CTVS, एच.आर.ए. रुग्णशाला नव दिल्ली
ABVMSB-Dr. RML Hospital, New Delhi-110001
डॉ. पलश अणवर, एच.आर.ए. रुग्णशाला, नई दिल्ली-110001

Dr. Sanjay Jain
Director, CGHS.

Dr. K. T. Bhowmik
Additional DGHS
Chairman.

Signature Not Verified

Signed By: SHIWANI
NEGI
Signing Date: 16.10.2026
18.00



15. It is pertinent to note that the aforesaid meeting was held post filing of the present petition on 06.10.2020.

16. The perusal of the aforesaid minutes of meetings would reflect that initially the only reason for denial of the claim of reimbursement was on the ground that the petitioner is not covered by the aforesaid O.M. dated 6th June, 2018 and it was observed that the Apollo hospital is a non-empanelled hospital. The ground that treatment through MICS was not justified was only given post filing of the present petition.

17. Be that as it may, in the considered opinion of this Court, the case of the petitioner is fully covered by O.M. dated 6th June, 2018 particularly under para-2(b) as reproduced hereinabove. The said OM which was formulated in pursuance of Judgment of the Hon'ble Supreme Court in **Shiva Kant Jha (supra)**, clearly contemplates the representation from CGHS Beneficiaries seeking full reimbursement under special circumstances. The petitioner has already placed on record an emergency certificate issued by the Apollo Hospital dated 16th July, 2019, which is reproduced as under:



2026:DHC:9213-DB



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DATE: 16/07/2019

Annexure P-5

TO WHOM SO EVER IT MAY CONCERN

This is to certify that Mr. Rajinder Mani aged 68 years, bearing UHID AHB.0000872011 was admitted to the hospital on 8/7/2019 on emergency basis with complaints of chest pain. He was diagnosed with Ischemic Heart Disease, Triple Vessel Coronary Artery Disease. He underwent Minimally Invasive Coronary Artery Bypass Grafting (MICS CABG) on 10/7/2019. He was discharged from the hospital on 16/7/2019.

This is for your kind information and necessary action.


Dr. Sathyaki Nambala
Chief Surgeon-CTVS
Apollo Hospitals
Bannerghatta Road
Bangalore

Dr. SATHYAKI P NAMBALA
Senior Consultant Cardiothoracic Surgeon
APOLLO HOSPITALS
No: 154/11, Opp. I.I.M. B.G. Road
Bangalore - 560076. ANDHRA 407893
Ph: 9900704906

A Unit of Imperial Hospital & Research Centre Limited
Regd. Office : Apollo Hospitals, 154/11, Opp. I.I.M., Bannerghatta Road, Bangalore - 560 076.
T : +91.80.26304050 Fax : +91.80.41463151 bangalore.apollohospitals.com, www.apollohospitals.com
CIN - U85110KA1991PLC011781
To book appointments or consult doctors online visit www.askapollo.com

Signature Not Verified

Signed By: SHIWANI
NEGI
Signing Date: 16.10.2026
18.00

W.P.(C) 7596/2020

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18. The objection of the respondents that the petitioner was not admitted in an emergency and was not there for ‘prolonged period’ is misplaced. The respondents further relied upon the discharge summary and information records to submit that the petitioner was in a stable condition and that he was conscious and oriented at that time. It is submitted that as per the Judgment of Hon’ble Supreme Court in **Shiva Kant Jha (supra)**, it is for the hospital to certify whether the patient was admitted in an emergency condition or not and the respondents will not be in a position to deny the same once a certificate from the said hospital is on record. Even as to what would be “*prolonged period*” is not clearly defined in any of the OMs. As per records, the petitioner was admitted in the hospital for 11-12 days. The line of treatment was decided by the Surgeon, who was treating the petitioner at the relevant point of time, these circumstances would definitely come under the category of “*Special circumstances*” and thus, he would be entitled for full reimbursement.

19. Despite following the mandate of the Hon’ble Supreme Court in **Shiva Kant Jha (supra)** and formulating the O.M. dated 6th June, 2018, the respondents did not follow the same and chose to categorise the petitioner in non-HPC cases, while, as per records, he was to be considered for full reimbursement in HPC cases.



20. It is also a matter of record that the petitioner was referred by CGHS to a specialist, *i.e.*, Cardiologist, CTVS Surgeon at any other CGHS approved Centre on 27th June, 2019, by way of following referral:

ANNEXURE-P-4

CENTRAL GOVERNMENT HEALTH SCHEME
GURGAON SECTOR-55

Date: 27.06.2019 TIME: 12.9.29PM

Serial No. 223
Card Type (P)
Age 68 years 7 Months
Beneficiary Id: 3422552

Token No. 130490
Name: Rajendra Mani
Relation: Self
Gender: Male

Symptoms: NA
Disease

S. No.	Medicine Name	Type	Dose	Advice	Duration	Qty.	Aval
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Wellness center. 1 Indent

Remarks: Refd. To Cardiologist, CTVS Surgeon at any CGHS approved center.

DR. D.R. SUMAN MUKHERJI

- * Please collect indented Medicines within two weeks only
- * For beneficiary login, download from and other facilities visit CGHS.nic.in
- * For 24x7 National CGHS Helpline please call toll Free Number 1800-208-8900

TRUE TYPED COPY

21. In **Shiva Kant Jha (*supra*)**, the Hon'ble Supreme Court has held that the real test would be factum of treatment and that before any medical claim is honoured, the authorities are to ensure as to whether the claimant



had actually taken the treatment and the said treatment is supported by the records certified by Doctors/Hospital concerned and once the same is established the claim cannot be denied on technical grounds. In the present case, the only reason for disallowing the reimbursement is that the procedure adopted was unlisted in CGHS and thus, the same cannot be recognised. In **Shiva Kant Jha (supra)**, it was the case of the respondents therein that implant of CRT-D device was not required and no prior approval for such implant was taken and the same was done from a non-empanelled hospital. The case of the present petitioner is on a better footing inasmuch as the Apollo hospital, Bangalore was CGHS empanelled hospital and reading of the aforesaid O.M. in pursuance of the **Shiva Kant Jha (supra)** judgment makes it clear that now there is a provision for full re-imbursement under special circumstances. Moreover, as noted above, this aspect that the present procedure was not justified is an after thought inasmuch as the same opinion has been given by the Doctors post filing of the present petition. The initial rejection of the petitioner's representation was only on the basis of para-2(a) covering non-HPC cases under O.M. dated 6th June, 2018, which was not applicable to the petitioner. Further, any other subsequent justification given by way of an affidavit in the present case would not be valid, in view of **Mohinder Singh Gill (supra)** judgment wherein, it is held as under:

“8. The second equally relevant matter is that when a statutory functionary makes an order based on certain grounds, its validity must be judged by the reasons so mentioned and cannot be supplemented by fresh reasons in the shape of affidavit or otherwise. Otherwise, an order bad in the beginning may, by the



time it comes to court on account of a challenge, get validated by additional grounds later brought out. We may here draw attention to the observations of Bose, J. in *Gordhandas Bhanji [Commr. of Police, Bombay v. Gordhandas Bhanji, 1951 SCC 1088 : AIR 1952 SC 16]*”

22. In view of the above, present petition stands allowed and disposed of. Respondents are directed to pay the balance amount of Rs. 5,80,361/- to the petitioner, within a period of 4 weeks.

23. We place on record our appreciation for the assistance rendered by Ms. Aakanksha Kaul, learned *amicus curiae*.

24. Pending applications, if any, stands disposed of.

25. Order be uploaded on the website of this Court, *forthwith*.

**NITIN WASUDEO SAMBRE
(ACTING CHIEF JUSTICE)**

**AMIT SHARMA
(JUDGE)**

OCTOBER 15, 2026/bsr/sg