Ex-servicemen and Serving Personnel are Consumers at Military Hospitals!

Dear Editor,

I read with interest the article “Medical Negligence in Military Hospital” [1]. Authors reported that State Consumer Redressal Forum has dismissed cases because Military Hospitals (MH) are not providing treatment on the basis of payment. The statement needs to be re-considered after Honourable Supreme Court Judgment in the case of *Laxman Thamma Kotagiri V/S GM Central Railways & Ors*, 2005, 1 scale 600 [2, 3] and National Consumer Dispute Redressal Commission (NCDRC) judgment in the case of *Jagdish Kumar Bajai V/S Union of India, Ministry of Health, Welfare & General Health Services* in revision petition No 570 of 2000 [2,4]. The honourable Supreme Court in judgment in the case ‘*Laxman Thamma Kotagiri V/S GM Central Railways & Ors*’ said that ‘where, as a part of the condition of services the employer bear the expenses of medical treatment of the employee and his family members dependent on him, the services rendered to such an employee and his family members by a medical practitioners or a hospital would not be free of charge and would constitute services under section 2 (1) (0) of the Consumer Protection Act’ [2]. If we interpret the same judgment in MH perspective then there is no doubt that the medical treatment provided to all serving personnel and their dependents at MH come under the purview of Consumer Protection Act.

Further, medical services rendered by Central Government Health Scheme (CGHS) to retired government employee were brought under the purview of the Consumer Protection Act in the judgment by the full bench of NCDRC. NCDRC observed that the pension was paid for past services hence no distinction could be

drawn between a serving employee and a pensioner for determining his status as a consumer [2]. Thus, all ex-servicemen and their family undertaking treatment at MH are consumers because services rendered before retirement or release form the ‘consideration’ for medical facilities.

It will be interesting to know, whether cases of negligence against MH being rejected by the State Consumer Redressal Forum after these two judgments! Consumer Court is the easiest remedial mechanism; however, clienteles of MH can also take recourse of ‘tort’ laws or ‘criminal’ laws in remedy of their grievances or negligence against medical officers or military hospitals.

References

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2. Gai JB. A question of Legal Remedy. *The Times of India* 2005 Nov 4; Times City, 5 (col. 1).
3. *Laxman Thamma Kotagiri V/S GM Central Railways & Ors*. Supreme Court 2005 Jan 6 : 1 scale 600. Available at http://consumer_indlaw.com
4. *Jagdish Kumar Bajpai vs Union of India Ministry of Health, Welfare & General Health Services*. NCDRC 2005 Oct 20 : Revised Petition 570 of 2002. Available at <http://ncdrc.nic.in/judgements.html>

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REPLY

Dear Editor,

I must admit that the reader has been a keen follower of the Consumer Dispute Redressals in relation to medical treatment. He has cited two judgements, one in the case of *Laxman Thamma Kotagiri Vs GM Central Railways and others*, 2005 by Supreme Court of India and another in *Jagdish Kumar Bajpai vs Union Of India, Ministry of Health, Welfare and General Health services of 2002 NCDRC*.

The judgements by NCDRC in 2002 did not make a material

difference as regards the armed forces are concerned. Judgements in the cases against Military Hospital by the State Consumer Dispute Redressal Commission (SCRDC) after 2002 were not affected by the *Jagdish Kumar Bajpai* case.

However, the judgement by Supreme Court of 2005 is quite explicit and the fallout can only be seen in future judgements delivered by the NCDRC/SCRDC.

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ANSWERS TO MCQ

1. c	2. b	3. a	4.c	5.c
6. b	7. b	8. c	9. b	10. a
11. b	12. a			