

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 3145/2008

PREM MAHALWAL Petitioner
Through Mr. Ankit Jain, Adv.

versus

GOVT. OF NCT OF DELHI & ORS Respondent
Through Ms. Zubeda Begum, Adv.

CORAM:
HON'BLE MR. JUSTICE SANJIV KHANNA

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not ?
3. Whether the judgment should be reported in the Digest ?

ORDER

% **27.08.2009**

1. The petitioner, Ms. Prem Mahalwal seeks reimbursement of the medical treatment bills from the Government of NCT of Delhi. She suffered a stroke in April, 2006 and was referred to the Nephrology Department, Rockland Hospital, a private recognized hospital, by the Chief Medical Officer (CMO), Directorate of Health Service, Government of NCT of Delhi. The petitioner has placed on record the reference

certificate issued by the CMO dated 19th April, 2006. The petitioner claims that the said reference certificate is valid and binding on the respondents as the CMO is the authorized medical attendant (AMA) for referral purposes. In this regard, counsel for the parties have drawn my attention to the clause 10 (ii) of the office memorandum dated 25th October, 2007, which reads as under:-

“ii. The authorized medical attendant (AMA) for referral purposes will be the CMO/MO Incharge of the dispensary/hospital where the beneficiary is attached.”

2. The respondent have stated that the reference was made in April, 2006 i.e. before office memorandum dated 25th October, 2007 and on the relevant date reference from Head of the Department was required. Even if this is correct, in the present case, undisputedly reference was made by the doctor employed by the respondents. It was equally the responsibility of the respondents to ensure that reference was made after following the prescribed procedure. Moreover the doctor concerned should have asked and warned the petitioner to follow the procedure. Technicalities should not come in way when it is accepted that treatment in a private recognized hospital was required.

3. The petitioner has asked for reimbursement of three bills of Rs. 13,839.90/-, Rs. 20887.40/- and Rs. 31,689.90/- for the periods May 2006 to December, 2006, January 2007 to June 2007 and July 2007 to November, 2007, respectively. These bills pertain to OPD treatment in Rockland Hospital. The respondents did not reimburse the said bills relying upon clause 10 (A) of the office memorandum dated 25th October, 2007. The said clause reads as under:-

“A. OPD Treatment in nonemergent conditions:

i. OPD specialist treatment in private recognized hospitals of the choice of the beneficiary shall be available on the advice of the concerned AMA for a period not exceeding six months in each instance. Any OPD treatment in private hospitals not recognized/empanelled under the scheme shall not be admissible for reimbursement.”

4. As noticed above, the petitioner was asked to approach a private recognized hospital by the CMO vide his recommendation dated 19th April, 2006. Thereafter, she has been taking treatment in the Rockland Hospital. No doubt clause 10 (A) requires recommendation/advice of the concerned AMA after period of 6 months at each instance, but the question is whether reimbursement should be denied, when otherwise specialist treatment in a private

recognized hospital was required and necessary. As noticed above, the office memorandum was issued on 25th October, 2007 i.e. after recommendation/advice for treatment at the private recognized hospital was already given. Approval if justified and was required can be given subsequently and expost facto. Reimbursement of medical expenses, which was necessary and required, should not be rejected on technical grounds unless there is an express prohibition. A liberal approach is required. Clause 10 (A) prohibits reimbursement of expenses/bills of private non-recognized or un-empanelled hospitals. There is no such express prohibition in case advise is not obtained every six months. It will be appropriate for the respondents to examine the case of the petitioner for post facto approval. While examining the case of the petitioner for post facto approval, the respondents will keep in mind the prescription, diagnostic reports and medical treatment, which the petitioner had to undergo. The respondents will also keep in mind the first prescription of the CMO dated 19th April, 2006 by which the petitioner was referred to Nephrology Department, Rockland Hospital.

5. Another contention raised by the counsel for the respondents is that the three bills mentioned above were submitted by the petitioner

for reimbursement on 13th February, 2008. In this regard, she relies upon the clause 8 of the Central Services (M.A.) Rules, which reads as under:-

“(8) Bills to be preferred within three months.- It has been decided that final claims for reimbursement of medical expenses of Central Government servants in respect of a particular spell of illness should ordinarily be preferred within three months from the date of completion of treatment as show in the last Essentiality Certificate issued by the Authorized Medical Attendant/Medical Officer concerned. The controlling authorities shall also be empowered not to entertain a medical claim not preferred by a Central Government servant within three months of the completion of the treatment where they are not satisfied with the reasons put forth by the Government servant for late submission of the medical claim or where the claim prima facie is incomplete.”

6. The said objection has not been raised by the respondents in their counter affidavit. Clause 8 of the Central Services (M.A.) Rules quoted above stipulates that the final claim for reimbursement of medical expenses in case of a particular spell of illness should ordinarily be preferred within three month from the date of completion of treatment. Use of the word “ordinarily” shows that it is not mandatory and the requirement is flexible. Further, the requirement is that the

medical claim/bills should be submitted within three months from the date of the completion of the treatment. In the present case, the petitioner underwent treatment for a long period. The object and purpose behind the said Central Services (M.A) Rule is to ensure that the frivolous claims are not made and claims in genuine cases are dealt with expeditiously and payments are made. Delay in submitting medical bills for reimbursement is to the disadvantage of the person, who is entitled to reimbursement.

7. Keeping all these aspects in mind, the respondents are directed to examine the bills submitted by the petitioner for reimbursement and if they are found to be genuine, correct and treatment was required and necessary in the private recognized hospital, the petitioner should not be denied reimbursement.

8. The last objection raised by the respondents is for reimbursement of the injections Wepox. The reimbursement for the said injections has been denied in view of the fact that the concerned doctor had not recommended the said injections during the period 11th July, 2007 to 6th September, 2007. The petitioner, however, has filed on record the bill from the medical store dated 11th July, 2007 for purchase

of the said injection for Rs. 4,660/- plus taxes. The bill has also been verified by the Consultant Nephrologist, Rockland Hospital. There is another bill dated 6th September, 2007 for Rs. 21,00/-. The said bill is also verified by the Consultant Cardiologist, Rockland Hospital. The petitioner has also filed on record photocopy of the out-patient card. As per the said card, the petitioner was advised and recommended administration of Wepox injection. The claim of the petitioner for reimbursement for Wepox injections requires consideration by the respondents. If required, the respondents are entitled to verify from the concerned Doctor/ Hospital. Similarly, the respondent will also examine the medical bills submitted by the petitioner for claiming reimbursement with regard to diagnostic tests at Dr. Lal Path Laboratory. It is a case of the petitioner that these diagnostic tests are permitted and allowed under clause 6 of the notification dated 22nd July, 2004. The respondent will examine whether bills for diagnostic test from Dr. Lal Path Laboratory are covered by the said clause.

9. With the aforesaid directions, the writ petition is disposed of. The respondents will pass a speaking order dealing with the each aspect on which the matter is remanded back to them, within a period of two

months from the date copy of this order is made available to them. In case any amount is found to be payable and due to the petitioner, the same will be paid to the petitioner within a period of one month from the date speaking order is passed. In case the petitioner is still aggrieved, he will be entitled to ventilate his grievance in accordance with law.

Dasti to the counsel for the parties.

SANJIV KHANNA, J.

AUGUST 27, 2009.

NA/P