

**HIGH COURT OF TRIPURA
AGARTALA
WP(C)No.884 of 2022**

Jharna Debnath,
wife of late Apurbalal Saha,
resident of Shalgara, South Tripura,
Pin-799114

.....Petitioner(s)

Versus

1. The State of Tripura,
to be represented by the Secretary,
Finance Department, Government of Tripura,
New Secretariat Complex, P.S. New Capital Complex,
P.O. Kunjaban, Agartala, West Tripura, Pin-799010

2. The Secretary, Department of Health & Family Welfare,
Government of Tripura, New Secretariat Complex,
P.S. New Capital Complex, P.O. Kunjaban, Agartala,
West Tripura, Pin-799010

3. The Secretary, Education (School) Department,
Government of Tripura, New Secretariat Complex,
P.S. New Capital Complex, P.O. Kunjaban, Agartala,
West Tripura, Pin-799010

4. The Director, Secondary Education,
Directorate of Secondary Education, Government of Tripura,
Shiksha Bhavan, Agartala, West Tripura, Pin-799001

5. The Additional Director, Secondary Education,
Directorate of Secondary Education, Government of Tripura,
Shiksha Bhavan, Agartala, West Tripura, Pin-799001

6. The Director of Health Services,
Health Directorate Building,
1st Floor, Pandit J.N. Complex, Agartala, Tripura,
Pin-799006

.....Respondent(s)

For Petitioner(s)	:	Mr. P. Roy Barman, Sr. Adv. Mr. D. Paul, Adv.
For Respondent(s)	:	Mr. K. De, Addl. G.A.
Date of Hearing & Judgment & Order	:	27.04.2023

HON'BLE MR. JUSTICE T. AMARNATH GOUD

Judgment & Order(Oral)

Heard Mr. P. Roy Barman, learned senior counsel appearing for the petitioner as well as Mr. K. De, learned Addl. G.A. appearing for the respondents.

2. By means of this writ petition, the petitioner has urged before this court for directing the respondents to sanction and release the medical reimbursement bills for a sum of Rs.8,80,000/- in favour of the petitioner. The petitioner has also urged for necessary direction for quashing and setting aside the letter dated 02.08.2022 issued by the Additional Director, Secondary Education, Government of Tripura.

3. The petitioner is a post graduate Teacher working under the Director of Secondary Education, Government of Tripura. At present, the petitioner is posted at Shalgara H.S. School, Udaipur, Gomati District, Tripura. In the month of March, 2022, the petitioner was suffering tremendous pain in her abdominal region, and so, she went to the ILS Hospital, Agartala, for treatment. From the patient case sheet dated 01.03.2022 issued at the ILS Hospital, Agartala, it is found that the petitioner was given some medications for her pain. Thereafter, the petitioner again went to District Hospitals, Gomati, Tripura as she did not seem to get any relief from her abdominal pain. From the Discharge Certificate, dated 05.03.2022, it is found that the petitioner was given further medications and asked to review after two weeks. Even after taking the said medications, the

pain have been increasing day by day and finding no other alternative, the family members of the petitioner decided to take the petitioner for further treatment at Apollo Hospital, Chennai.

4. On 08.04.2022, the petitioner was taken to Apollo Hospital, Chennai for better diagnosis and further treatment. After diagnosis it was found that the petitioner had been suffering from **Well Differentiated Neuroendocrine Tumor-Head of the Pancreas, Grade 2 (WHO) with Obstructive Jaundice**. On 11.04.2022, the petitioner was admitted to Apollo Hospital, Chennai for surgical operation as the doctors of Apollo Hospital had recommended immediate surgery to save the life of the petitioner as the Tumor had already gotten enlarge to Grade 2 stage. Thereafter, the surgery was conducted on 12.04.2022.

5. It is pertinent to mention here that the **Neuroendocrine Tumor**, i.e. the reason behind the excruciating pain of the petitioner never got diagnosed at Agartala. Had the family members of the petitioner not taken the urgent decision to take the petitioner to Apollo Hospital, Chennai for better diagnosis, golden hours of the petitioner's life would have been lost, thereby causing such life threatening danger to the petitioner, which one can hardly apprehend. From the Discharge Summary dated 26.04.2022, issued at Apollo Hospital, Chennai it is revealed that on 12.04.2022, the petitioner underwent **WHIPPLE PROCEDURE** surgery which was the need of the hour. The petitioner was further advised to review with Dr. P. Venkat on 28.04.2022 in OPD.

6. Coming back at Agartala after availing life saving treatment at Apollo Hospital, Chennai, the petitioner submitted representation dated 06.07.2022 seeking medical reimbursement for a sum of Rs.8,80,000/- to the Director of Secondary Education, Government of Tripura. In the said letter, the petitioner has stated that the petitioner's husband suddenly died on 04.02.2022 and after one month, the petitioner also feel ill and was admitted to ILS Hospital, Agartala. The petitioner has further stated that after treatment at ILS Hospital, the family members of the petitioner became very anxious and took the petitioner to Apollo Hospital, Chennai and there, it was diagnosed that the petitioner was suffering from CA Head of Pancreas. The petitioner also stated that the doctors at Apollo Hospital suggested for surgical operation immediately which the petitioner underwent and it cost Rs.8,80,000/- in total. The petitioner has also stated that at present the petitioner is totally destitute for further treatment and the petitioner is also unable to withdraw G.P.F. as she had already withdrawn G.P.F. in recent past for her treatment purposes. Stating so, the petitioner has requested the Director of Secondary Education, Government of Tripura to grant her prayer to refund the medical expenses incurred in her treatment.

7. The petitioner submitted her claim for MR bills in a prescribed format of application claiming refund of medical expenses incurred in connection with Medical Attendance and treatment of Central Government Servant and their families. Be it mentioned here that the said form was duly authenticated by Dr. P. Venkat from Apollo Hospital, Chennai. Along with the

duly filled up MR form, the petitioner also submitted all necessary relevant vouchers, bills and other necessary documents in connection with her treatment.

8. When the petitioner was suffering from severe pain in her abdominal region which did not seem to cease and as a result thereof, the family members in their eagerness to give better treatment, took the petitioner to Apollo Hospitals, Chennai and the petitioner was given treatment on emergency basis and for this reason, the life of the petitioner could be saved. To save the life of the petitioner, it was necessary to give treatment within the golden hour. Had it not been done so, the petitioner would have suffered severe life endangering consequences. As such, there was no scope to obtain referral from the Standing Medical Board, Agartala.

9. In response to the representation of the petitioner dated 06.07.2022, the Additional Director, Secondary Education, Government of Tripura issued a letter dated 02.08.2022 to the District Education Officer, Gomati District Zonal Office. By the said letter, the MR bill of the petitioner for Rs.8,80,000/- was returned citing the reason that the petitioner had not obtained prior referral from the Standing Medical Board.

10. Most arbitrarily and mechanically, without taking into consideration that the petitioner has inherent rights to take immediate steps to save her life in case of emergency, and the petitioner cannot be asked to stand in a queue to get referred from the Standing Medical Board, when the

sword of death is hanging on the head of the petitioner, the MR bill has been regretted.

11. According to the petitioner it has been well settled by the Hon'ble High Court and the Hon'ble Supreme Court in a catena of decisions that obtaining of prior referral from the competent authority, is not mandatory, and, that, the entitlement to MR bill cannot be denied or defeated on the ground that prior referral was not obtained from the competent authority. In this regard it is necessary to mention that the Hon'ble High Court of Tripura in a recent judgment in WP(C)No.1479/2017 [**Sri Uttam Paul versus The State of Tripura and Others**] held that, reference is a procedural formality, and it not mandatory, that, in each and every circumstance, prior reference is to be obtained by the concerned employee from the Standing Medical Board to enable him to get medical reimbursement.

12. The Joint Secretary to the Government of Tripura in the Finance Department issued Memo dated 09.08.2005, the subject matter of the said Memo is Medical Reimbursement facility to Group-C & Group-D Government employees for treatment as referred case outside the State and also for treatment of Cancer in the Cancer Hospital of the State. By the said memorandum, clarification has been given to the effect, that when a Group-C or Group-D Government Employee himself or herself suffering from disease other than cancer, is referred to Medical Institution or Hospital to which he or

she is referred to the cost of treatment in that Hospital or Institution excluding the cost of journey, is admissible for reimbursement.

13. The memorandum issued by the Under Secretary to the Government of Tripura, in the Finance Department, it has been clarified that whenever a Group-C or Group-D employee, duly referred by the Standing Medical Board to a particular institution for medical treatment undertakes the medical treatment at some other institution of his own volition, he or she shall be entitled to get medical reimbursement which shall be limited to the treatment cost at the rates of the referred medical institutions or hospitals including journey expenses.

14. The petitioner is not at fault for obtaining emergency treatment. To avail life saving emergency treatment, the petitioner had to take loan from different sources with the expectation, that, on getting the medical reimbursement, he would refund the loan, but unfortunately, it has been rejected most arbitrarily and mechanically.

15. The petitioner is entitled to medical reimbursement as the petitioner is covered by the Central Services (Medical Attendance) Rules, 1944, which has been adopted by the State of Tripura and is applicable to State Government employees as well. The Right to life is a fundamental right of every Indian Citizen as enshrined under Article 21 of the Indian Constitution. It is an obligation cast on the State to provide adequate medical service to the people under Article 47 of the Constitution of India.

16. Having heard both sides this court directed the respondents to consider the case of the petitioner of medical reimbursement of Rs.8,80,000/- as expeditiously as possible preferably within a period of one month from the date of receipt of a copy of this order provided the said bills are not disputed of their genuinity.

In terms of the above, the present writ petition is disposed of.

JUDGE

