

HIGH COURT OF TRIPURA
_A_G_A_R_T_A_L_A_
WP(C) No.1096 of 2022

Sentu Das, son of late Manindra Ch. Das, R/O village Tufania Lunga, P.O. Tebaria, P.S. Airport, District: West Tripura.

.....Petitioner

_V_E_R_S_U_S_

1. The State of Tripura, represented by the Secretary Education Department, Govt. of Tripura, New Secretariat Complex, P.O. Secretariat Complex, Agartala West Tripura.
2. The Secretary, Health & Family Welfare Department, Govt. of Tripura, New Secretariat Complex, P.O. Secretariat Complex, Agartala, West Tripura.
3. The Secretary, Finance Department, Govt. of Tripura, New Secretariat Complex, P.O. Secretariat Complex, Agartala, West Tripura.
4. The Director of School Education, Accounts Section, Agartala.
5. The Director of Secondary Education, Directorate of Secondary Education, Accounts Section, Govt. of Tripura.
6. The Dy. Director of Education, Gomati District Zonal Office, Udaipur Gomati District.

.....Respondents

For Petitioner(s)	:	Mr. P. Roy Barman, Sr. Advocate. Mr. Samarjit Bhattacharjee, Advocate.
For Respondent(s)	:	Mr. D. Sarma, Addl. G.A.
Date of hearing	:	04.07.2023
Date of delivery of		
Judgment and order	:	13.07.2023
Whether fit for reporting	:	YES

BEFORE
HON'BLE MR. JUSTICE T. AMARNATH GOUD
_F_I_N_A_L_O_R_D_E_R_

Heard Mr. P. Roy Barman, learned senior counsel assisted by Mr. Samarjit Bhattacharjee, learned counsel appearing for the petitioner. Also heard Mr. D. Sarma, learned Addl. G.A. appearing for the respondents.

[2] The present petition has been filed under Article-14 of the Constitution of India for quashing and cancelling the note dated 25.03.2019 issued by the Under Secretary, Finance Department, Govt. of Tripura also for cancelling the letter dated 18.04.2019 issued by the Director of Secondary Education, Govt. of Tripura and memo dated 27.07.2022 issued by the Director of Secondary Education, Govt. of Tripura. Further directing the respondents to give the benefit

of medical reimbursement bill submitted by the petitioner on 15.12.2016 amounting to Rs.2,41,777/- and TA bill amounting to Rs.32,638/- submitted on 17.01.2017 to the petitioner in connection with the treatment of his wife Smti. Anju Das, at Apollo Hospital, Chennai, being referred by the Standing Medical Board, AGMC & GBP Hospital, vide certificate dated 21.11.2016 also directing the respondents to allow medical reimbursement bill and TA bill to the petitioner in connection with the treatment of his wife, dependent family member, like that of Group-A and Group-B employees in respect of all types of deceases inside/outside the State of Tripura.

[3] The brief facts of the present writ petition is that the petitioner has prayed for a direction to the respondents to give the benefit of medical reimbursement bill submitted by the petitioner on 15.12.2016 amounting to Rs.2,41,777/- and TA Bill amounting to Rs.32,638/- submitted on 17.01.2017 to the petitioner in connection with the treatment of his wife at Apollo Hospital, Chennai being referred by the Standing Medical Board, AGMC & GBP Hospital. The petitioner also prayed for a direction to the respondents to allow MR Bill and TA bill to the petitioner in connection with the treatment of his wife, dependent family member, like Group-A and Group-B also delete the word Cancer from Clause-E of the memo dated 22.10.2022 issued by the Deputy Secretary, Health & Family Welfare Department, Govt. of Tripura and in place thereof, substitute the word illness of any kind of decease therein.

[4] Mr. S. Bhattacharjee, learned counsel appearing for the petitioner has submitted that in the year of 2016, the medical facilities which were necessary for the treatment or surgery of the wife of the petitioner were not available in the AGMC & GBP Hospital, Agartala or in any other hospital of Tripura and that is why she has been referred outside the State for her treatment. in AGMC & GBP Hospital, Agartala scopes or facilities were not available for giving any treatment or operating a patient who has been suffering from symptomatic leiomyoma, hypertensive cardiomyopathy with CAD.

[5] A certificate for referral outside the State has been issued on 21.11.2016 by the authorized medical officer, AGMC & GBP Hospital, Agartala, countersigned by State referral board, AGMC & GBP Hospital and the Director of Health Services, Govt. of Tripura. In the said certificate, it is mentioned that the wife of the petitioner namely Smti. Anju Das is suffering from symptomatic leiomyoma, hypertensive cardiomyopathy with CAD and therefore, she has been referred to Apollo Hospital, Chennai for further treatment as such types of facilities were not available in the State of Tripura.

[6] It has been further stated that wife of the petitioner was admitted in the Apollo Hospital, Chennai on 27.11.2016 for her surgery as she was suffering from hypertrophic cardiomyopathy with CAD with multiple fibroid uterus. She underwent a surgery on 28.11.2016. The discharge summary has been issued by the Apollo Hospital on 29.11.2016. In the discharge summary, the admission date was of the wife of the petitioner was shown as 27.11.2016 and the discharge date was mentioned as 29.11.2016. The discharge summary records the principal diagnosis, surgery, history of present illness, social history, clinical examination, course in the hospital and discussion and advice on discharge given to Smti. Anju Das. From the discharge summary, it is available that the wife of the petitioner underwent a surgery on 28.11.2016.

[7] Mr. Bhattacharjee, learned counsel has further argued that the petitioner is entitled to medical reimbursement in respect to the expenditure incurred by the petitioner for surgery and connected treatment of his wife. The petitioner submitted MR Bill for Rs.2,41,777/- to the Dy. Director of Education, District Education Office, Udaipur Gomati District in General Form No.49. The bill was duly certified by the competent authority and supported by all the original prescriptions, vouchers, cash memos bill etc. The Head Master, Head office and DDO Rangamati H.S. School, Amarpur, Gomati District, vide forwarding letter dated 15.12.2016 forwarded the MR Bill of the petitioner to the Dy. Director of Education, Gomati District Zonal Office, Udaipur Gomati District.

[8] Vide memo dated 07.01.2017, issued by the Director of Secondary Education, Tripura Rs.2,23,013/- had been sanctioned in favour of the petitioner as medical reimbursement and accorded to the H.O. & DDO, Rangamati H.S. School, Udaipur for making payment to the petitioner for reimbursing expenditure incurred by the petitioner for the treatment of his wife being referred by the Standing Medical Board. Vide forwarding letter dated 17.01.2017 has forwarded the TA bill of the petitioner to the Dy. Director of Education, Gomati along with all original tickets and bills. Thereafter, most arbitrarily a letter dated 21.03.2017 has been issued by the Director of School Education regretting the MR bill of the petitioner. In the said letter it has been mentioned that the petitioner is not entitled to medical reimbursement as, the family members of Group-C employees are not entitled to medical reimbursement.

[9] It has been further contended that being aggrieved by the letter dated 21.03.2017, the petitioner has submitted a representation dated 13.08.2018 through proper channel to the Director of School Education for reconsideration of the MR Bills. Thereafter, the Under Secretary, Finance Department, Govt. of Tripura has

issued a note on 25.03.2019 and in the said note, it has been stated that the Finance Department regrets the proposal of the department as the case is not covered by the normal rules. The impugned note dated 25.03.2019 does not reveal as to how MR bill submitted by the petitioner is not admissible for reimbursement. A statement without showing any valid reason has been made to the effect that as per existing Rules, MR Bill submitted by the petitioner is not admissible.

[10] Being aggrieved by the same, the petitioner has filed one writ petition before this Court being WP(C) No.529 of 2022 and in the said petition the petitioner has prayed for cancelling the same. The petitioner has sought for a direction to accord sanction to the medical reimbursement bill submitted by him on 15.12.2016 for reimbursing the expenditure incurred by the petitioner for the treatment of his wife suffering from chronic uterus problem outside the State of Tripura i.e. Apollo Hospital Chennai being referred by the Standing Medical Board, AGMC & GBP Hospital.

[11] It has been further averred by the learned counsel appearing for the petitioner that the Director, Secondary Education, Tripura has issued the impugned memo dated 27.07.2022 regretting MR bill and T.A. Bill claimed by the petitioner. By the said memo most arbitrarily the claim of the petitioner was rejected and it has been stated that the petitioner is hereby intimated that there is no scope to consider his claimed medical reimbursement and related travelling allowance bill according to the rule mentioned in the said memo. In the said memo, the concerned authorities have relied on the memorandum dated 09.08.2005 and has given the following observations:

“Whereas, after analysis and examination of all the relevant rules of the medical reimbursement it is to inform, the said Sri Sentu Das, UDC (now Head Clerk) that being a Group-C employee under the State Government comes under the Finance Department, Govt. of Tripura memorandum No. F.5(10)-FIN(G)/75-I dated 09.08.2005 i.e. Medical Reimbursement facility to Group-C & D Government employees for treatment as referred case outside the State and also for treatment of cancer in cancer hospital of the State (copy enclosed)”

WHEREAS, in the memorandum No. F.5(10)-FIN(G)75-I dated 09.08.2005 para-2.A(i) stated “when Group-C & D Government employee himself/herself suffering from diseases other than cancer and is referred to medical institution/Hospital to which he/she referred to the cost of treatment in that institution/Hospital excluding the cost of journey is admissible for reimbursement. This benefit is not admissible in respect of any member of the family of such a Government employee. It has been submitted that the most unreasonably the respondents have issued the memo dated 27.07.2022 cancelling the claim made by the petitioner for getting his MR bills and T.A. Bill.”

[12] It has been brought to the notice of this Court the memorandum dated 25.09.2004 issued by the Chief Secretary to the Govt. of Tripura, Health & Family Welfare Department. By that memorandum vide para (f) it is provided that *Group-C & D Govt. employees are not normally entitled to medical reimbursement facility but, the same may be available to them in cases of special dispensation only with prior approval of the Finance Department, Government of Tripura.* The aforesaid memo dated 25.09.2004, the Group-C & D employees are entitled to medical reimbursement in cases of special dispensation only with the prior approval of the Finance Department, Govt. of Tripura. Though, it has been stated that the Group-C & D employees will get the medical reimbursement in cases of special dispensation but, the parameters of the term “special dispensation” has not been clearly stated in the aforesaid memo.

[13] The respondents cannot apply a straight jacket formula to dismiss the medical reimbursement claim of the petitioner in a routine and casual manner without fulfilling the pre-requisite special dispensation with prior approval of the Finance Department. Such, special dispensation must be based on reason. Impugned letter issued by the respondent rejecting the medical reimbursement and TA bill of the petitioner is bereft of any reason. In the note dated 25.03.2019 issued by the Finance Department, the reason on what basis the MR & TA bills of the petitioner has been regretted any why the case of the petitioner cannot be considered in the parameter of special dispensation has not been stated.

[14] Mr. Bhattacharjee, learned counsel has further contended that the son of the petitioner is suffering from kidney disease for many years. In the year of 2016 as per the advice of the doctors, the son of the petitioner also had to undergo an operation of his kidney at Frodis Hospital, Kolkata and at present his son is staying at Agartala and pursuing his higher studies. The petitioner had to manage huge amount of money from different sources for the treatment of his wife. Due to regretting of the medical reimbursement by the note dated 25.03.2019 and letter dated 18.04.2019, the petitioner has now fallen in a very difficult situation.

[15] The petitioner had to incur loan from different sources for arranging treatment of his wife. The petitioner expected that after getting the medical reimbursement he would be in a position to refund the loan. The treatment of his wife is still continuing. He is required to take his wife to the doctors at regular intervals. For such treatment, the petitioner is required to arrange considerable amount of money. Due to the regretting is in very much difficulty and suffering from extreme financial hardship. The petitioner is absolutely eligible to be reimbursed of the expenses incurred by him for the treatment of wife outside the

State as being referred by the State Referral Board and his claim falls under the parameter of “special dispensation”.

[16] Vide memo dated 01.08.2007, issued by the Under Secretary, Govt. of Tripura in the Finance Department, it has been clarified that whenever Group-C and Group-D employees duly referred by the Standing Medical Board to a particular institution for medical treatment undertakes the medical treatment at some other institution of his/her own volition, he/she shall be entitled to get medical reimbursement which shall be limited to the treatment cost at the rates of the referred medical institutions/hospitals including journey expenses. The Secretary, Health & Family Welfare Department Govt. of Tripura, issued memorandum dated 22.12.2022 and the subject matter of the said memorandum is thus *“Reimbursement facility to the State Government employees of medical expenditure incurred by the employees for treatment inside/outside the State”*. As per said memorandum, the dependent family member of the Group-A & B employees are entitled to medical reimbursement. Even the dependent family members of the State Government Group-A & B employees, who are not residing with the concerned employees due to staying outside the State and require medical treatment in any health institution, will be eligible to get reimbursement of treatment expenses at latest CGHS are.

[17] From the memorandum dated 22.12.2022 it is crystal clear that in respect to any sort of illness of the dependent family members of Group-A & B employees, they will be entitled to medical reimbursement. Not only that, for getting such medical reimbursement, it is not required that dependent family members will have to live together with the Group-A & B employees. Even if the dependent family members resides outside the State and not with the Group-A&B employees will be entitled to medical reimbursement in regard to the treatment of his/her dependent family members for the treatment which has been undertaken outside the State. Even for availing medical reimbursement for such treatment referral certificate by the Standing Medical Board is not a pre-condition, it is obviously for the reason, that when the dependent family members is/are living/staying outside the State question of being referred by the Standing Medical Board does not arise.

[18] Group-C & D employees are only entitled to medical reimbursement, in connection with the treatment of dependent family member, if the family member suffers from cancer. In respect to all other sorts of illness/diseases of the family members, Group-C & D employees are not entitled to medical reimbursement, whereas Group-A and B employees are entitled of

his/her family members irrespective of the deceases suffered by the concerned family members. This is ex-facie discriminatory as in the event of extending the benefit of medical reimbursement in the treatment of family members, discrimination has been made between Group-C & D employees. Group-A & B employees have been extended the benefit of medical reimbursement in connection with the treatment of their family members in respect of any disease/illness but, so far Group-C & D are concerned benefit of medical reimbursement for the treatment of their family members has been confined in respect of only one disease i.e. cancer. Such, nexus with the object of the memorandum and the classification is not reasonable classification. In regard to the treatment of dependent family members of Group-A & B and Group-C & D employees belong to a homogenous group and said homogenous group cannot be bifurcated by dint of artificial and arbitrary classification.

[19] Clause-E of the memo issued by the Deputy Secretary, Health & Family Welfare Department, Govt. of Tripura has defeated the very purpose and object of the guideline of medical reimbursement claim. Hence, the offending portion of the said guideline is arbitrary and hit by Article-14 of the Constitution of India. Mr. Bhattacharjee, learned counsel appearing for the petitioner in support his contentions has placed his reliance in a decision of the Apex Court *in Surjit Singh v. State of Punjab and Others*, reported in (1996) 2 SCC 336, wherein, the Court has held thus:

“11. It is otherwise important to bear in mind that self preservation of one's life is the necessary concomitant of the right to life enshrined in [Article 21](#) of the constitution of India, fundamental in nature, sacred, precious and inviolable. The importance and validity of the duty and right to self-preservation has a species in the right of self defence in criminal law. Centuries ago thinkers of this Great Land conceived of such right and recognised it. Attention can usefully be drawn to verses 17, 18, 20, and 22 in Chapter 16 of the Garuda Purana (A Dialogue suggested between the Divine and Garuda, the bird) in the words of the Divine:

17. Vinaa dehena kasyaapi Without the body how can one canpurushartho na obtain the objects of human vidyate Tasmaaddeham life? Therefore protecting the dhanam rakshetpunyakar- body which is the wealth, one maani saadhayet should perform the deeds of merit.

18. Rakshayetsarvadaatmaanamaatmaa One should protect his body sarvasya bhaajanam Rakshane which is responsible for yatnamaatishthejje everything. He who protects vanbhaadraani pashyati himself by all efforts, will see many auspicious occasions in life.

20. Sharirarakshanopaayaah The wise always undertake Kriyante sarvadaa the protective measures budhaih Necchanti cha for the body. Even the punastyaagamapi persons suffering from kushthaadiroginah leprosy and other diseases do not wish to get rid of the body.

22. Aatmaiva yadi naatmaanama If one does not prevent what hitebhyo nivaarayet is unpleasent to himself, Konsyo hitakarastasmaa- who else will do it? daatmaanam taarayishyati Therefore one should do what is good to himself.”

[20] In another case *Shiva Kanta Jha v. Union of India*, reported in (2018) 16 SCC 187, wherein, the Court has observed as under:

“16. 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.

17. 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.

18. 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.”

[21] Mr. D. Sarma, learned Addl. G.A. appearing for the respondents-State in support of his case has submitted that the petitioner is trying to mislead this Court by mentioning the latest Health & Family Welfare Department memorandum dated 22.12.2022. The memorandum had been issued through examination of the benefits of the government employees according to their service categories with approval of the council of ministers of the State of Tripura and also approved by the Finance Department, Govt. of Tripura. It is further submitted that this Court cannot strike down a policy decision taken by the State Government merely because it feels that another policy decision would have been fairer or wiser or more scientific or logical.

[22] In support of his submission, he has placed his reliance in case ***Peerless General Finance and Investment Co. Limited and Another v. Reserve Bank of India***, reported in ***AIR 1992 SC 1033*** has held thus:

“31. The function of the Court is to see that lawful authority is not abused but not to appropriate to itself the task entrusted to that authority. It is well settled that a public body invested with statutory powers must take care not to exceed or abuse its power. It must keep within the limits of the authority committed to it. It must act in good faith and it must act reasonably. Courts are not to interfere with economic policy which is the function of experts. It is not the function of the Courts to sit in Judgment over matters of economic policy and it must necessarily be left to the expert bodies. In such matters even experts can seriously and doubtlessly differ. Courts cannot be expected to decide them without even the aid of experts.”

[23] In ***Premium Granites and Another v. State of Tamil Nadu and Others***, reported in ***AIR 1994 SC 2233***, while considering the Court’s powers in interfering with the policy decision, it was observed thus:

“54. It is not the domain of the court to embark upon uncharted ocean of public policy in an exercise to consider as to whether a particular public policy is wise or a better public policy can be evolved. Such exercise must be left to the discretion of the executive and legislative authorities as the case may be.

[24] In regard to the arguments as advanced by the petitioner that the latest order is discriminated with Group-C & D employees, the memorandum has simplified the process of referral in acute emergency or acute illness case. The validity of the change of Government policy in regard to the reimbursement of medical expenses to its serving and retired employees came up for consideration before the Apex Court in ***State of Punjab and Others v. Ram Lubhaya Bagga Etc.*** reported in ***AIR 1998 SC 1703***. The earlier policy upholding the reimbursement for treatment in a private hospital had been upheld by this Court but the State of Punjab changed this policy whereby reimbursement of medical

expenses incurred in a private hospital was only possible if such treatment was not available in any government hospital. Dealing with the validity of the new policy, the Court observed as under:

“25. Now we revert to the last submission, whether the new State policy is justified in not reimbursing an employee, his full medical expenses incurred on such treatment, if incurred in any hospital in India not being a Government hospital in Punjab. Question is whether the new policy which is restricted by the financial constraints of the State to the rates in AIIMS would be in violation of Article 21 of the Constitution of India. so far as questioning the validity of governmental policy is concerned in our view it is not normally within the domain of any court, to weigh the pros and cons of the policy or to scrutinize it and test the degree of its beneficial or equitable disposition for the purpose of varying modifying or annulling it, based on however sound and good reasoning, except where it is arbitrary or violative of any constitutional, statutory or any other provision of law. When Government forms its policy, it is based on number of circumstances on facts, law including constraints based on its resources. It is also based on expert opinion. It would be dangerous if court is asked to test the utility, beneficial effect of the policy or its appraisal based on facts set out on affidavits. The Court would dissuade itself from entering into this realm which belongs to the executive. It is within this matrix that it is to be seen whether the new policy violates Article 21 when it restricts reimbursement on account of its financial constraints.”

[25] In view of above discussions and observations by different Court, let us revisit into the contents of the present case. The memorandum dated 22.10.2022 issued by the Deputy Secretary, Health & Family Welfare Department, Govt. of Tripura is discriminatory and against the Directive Principles of State Policy accordingly, the Government is directed to take steps for extending the benefit of medical reimbursement to the spouses of the dependents of the Group-D employees also. For the purpose of reference, Directive Principles of State Policy may be incorporated:

“Directive Principles of State Policy: The Directive Principles of State Policy set forth the humanitarian socialist precepts which was the aim of the India Social revolution. The Directive Principles and fundamental rights mainly proceed on the basis of human rights freedom to nothing else but a chance to be better. It is this liberty to do better is the theme of Directive Principles of State Policy in IV of Constitution.

Fundamental Rights and Directive Principles:

“The difference between the Fundamental Rights and Directive Principles lies in this that Fundamental Rights are primarily aimed at assuring political freedom to the citizens by protecting them against excessive State action while the Directive Principles are aimed at securing social and economic freedoms by appropriate State action. The Fundamental Rights are intended to foster the ideal of a political democracy and to prevent the establishment of authoritarian rule but they are of no value unless they can be enforced by resort to courts. So they are made justiciable. However, it is also evident that notwithstanding their great importance, the Directive Principles are less important than Fundamental Rights or that they are not binding on the various organs of the State.

State to secure a social order for the promotion of welfare of the people:

(1) The State shall strive to promote the welfare of the people by securing and protecting as effectively as it may a social order in which justice, social, economic and political, shall inform all the institutions of the national life.

(2) The State shall, in particular, strive to minimise the inequalities in income, and endeavour to eliminate inequalities in status, facilities and opportunities, nor only amongst individuals but also amongst groups of people residing in different areas or engaged in different vocations.

Livelihood: What was once considered to be a luxury has become a necessity in the present day. Concept of livelihood is no longer confined to bare physical survival in terms of food, clothing and shelter but also now necessarily includes basic medicines, preliminary education, transport etc.

Certain principles of policy to be followed by the State: The State shall, in particular, direct its policy towards securing:

(a) That the citizens, men and women equally, have the right to an adequate means to livelihood.

(b) That the ownership and control of the material resources of the community are so distributed as best to subserve the common good.

(c) That the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment.

(d) That there is equal pay for equal work for both men and women.

(e) That the health and strength of workers, men and women, and the tender age of children are not abused and that citizens are not forced by economic necessity to enter avocations unsuited to their age or strength.

(f) That children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against exploitation and against moral and material abandonment.”

[26] This Court is conscious of the fact that in a State policy matters Court cannot interfere but at the same time, the fact of welfare measures as contemplated in the Directive Principles of State Policy under Article-39 of the Constitution of India, the benefit extended to the other employees cannot be deprived to the one section of any. The inclusion of Article 13(1) and (2) in the Constitution appears to be a matter of abundant caution. Even in their absence if any of the fundamental rights was infringed by any legislative enactment, the Court has always the power to declare the enactment, to the extent it transgresses the limits, invalid. Article-39A of the Constitution of India it has been stated that *“Equal justice and free legal aid- the State shall secure that the operation of the legal system promotes justice, on a basis of equal opportunity, and shall, in particular, provide free legal aid, by suitable legislation or schemes or in any other way, to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities.”*

[27] Earlier, the Government has taken a decision that the employees got treated in the referral hospital by obtaining referral from the Standing Medical Board and at a later stage, this Court has called the Principal Secretary, Medical Board and in this regard, series of writ petitions came before this Court and this Court summoning the Principal Secretary to seek his response and accordingly, the concerned person was present before the Court and thereafter, the Government has issued the modified notification relaxing the requirements of referral hospitals and allowed the employees to get treatment without any medical referral. Now, the issue before this Court which falls for consideration is by virtue of the memorandum dated 22.12.2022 which is the subject matter challenged in the present petition by way of an amendment to the prayer that the spouse the petitioner herein being an employee of Group-D denied of her medical expenses.

[28] It cannot be denied that in the event of any medical expense to the same extent, the affordability of Group-A and B as per memorandum dated 22.12.2022 of the State Government, they can affordable to bear the expenses for medical purpose but, insofar as Group-D employees are concerned even if it is a paltry amount following towards the medical expenses would be grave burden to the said employees. Hence, it becomes immense essential and the need of the day for reconsidering the same decision indicated in the memorandum. Accordingly, the respondents shall reconsider the issue in the light of the above.

[29] In view of above, the present petition stands allowed in the above terms. As a sequel, miscellaneous applications pending, if any, shall stand closed.

JUDGE

A. Ghosh

ANJAN
GHOSH

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