

**HIGH COURT OF TRIPURA
AGARTALA**

WA No.14 of 2023

Smt. Uma Banik (Datta), W/O: Lt. Sanjib Narayan Datta, R/O: Paragti Road,
Durga Chowmuhani, Tripura, Dist- West Tripura, Pin: 799001

.....Appellant(s);

Versus

1. The State of Tripura, to be represented by the Secretary/Special Secretary,
Department of Forest, Government of Tripura, New Secretariat Building, New
Capital Complex, Kunjaban, Agartala, West Tripura, PIN: 799010

2. The Secretary, Finance Department, Government of Tripura, New Secretariat
Building, New Capital Complex, Kunjaban, Agartala, West Tripura, PIN:
799010

3. The Managing Director, Tripura Forest Development and Plantation
Corporation Limited, Agartala, Tripura

4. The Director Health Services, Govt. of Tripura, Agartala

5. The Executive Director, Tripura Forest Development and Plantation
Corporation Limited, Abhoynagar, Agartala

.....Respondent(s).

For Appellant(s) : Mr. P. Roy Barman, Sr. Advocate,
Mr. Samarjit Bhattacharjee, Advocate,
Mr. Kawsik Nath, Advocate,
Ms. A. Debbarma, Advocate.

For Respondent(s) : Mr. D. Sharma, Addl. G.A.

**HON'BLE THE CHIEF JUSTICE MR. APARESH KUMAR SINGH
HON'BLE MR. JUSTICE S.D. PURKAYASTHA**

Date of hearing and judgment: **9th September, 2024**

Whether fit for reporting: **YES**

JUDGMENT & ORDER (ORAL)

Heard Mr. P. Roy Barman, learned senior counsel assisted by Mr.
Samarjit Bhattacharjee, learned counsel for the appellant and Mr. D. Sharma,
learned Additional Government Advocate for the respondents-State.

2. Learned Writ Court by the impugned order dated 06.01.2023 has
refused to interfere in the order dated 26.03.2021 [Annexure-12] issued by the
Director of Health Services, Government of Tripura, Agartala rejecting the
claim of medical reimbursement of the husband of the appellant Sanjib Narayan

Datta, a Junior Engineer for his treatment at Tata Memorial Centre, Mumbai and Manipal Hospital, Bengaluru as it was inadmissible without reference of the Standing Medical Board, AGMC & GBP Hospital, Agartala.

3. Learned senior counsel for the appellant has taken us through the chronology of the ailment of appellant's husband and his treatment at the hospitals in Agartala to the Manipal Hospital in Bengaluru and then at Tata Memorial Centre where it was confirmed that he was suffering from metastasis high-grade urothelial carcinoma. After two doses of chemotherapy since he became critically ill, he was recommended transfer to his hometown for further treatment. He then returned to Agartala and died while undergoing treatment at A.B.V. Regional Cancer Centre, Agartala. Thereafter, claim for medical reimbursement of his treatment at Manipal Hospital, Bengaluru and Tata Memorial Centre, Mumbai was submitted for Rs.4,08,150/- to the Managing Director, Tripura Forest Development and Plantation Corporation Limited. The same was rejected on the ground that the deceased was not referred by the Standing Medical Board for treatment outside State. The learned Writ Court dismissed the writ petition with an observation that though the deceased was undergoing treatment for a long time at AGMC & GBP Hospital, Government of Tripura and various tests were suggested and conducted which granted enough time and opportunity to the petitioner/appellant herein to approach the Standing Medical Board of the State to obtain referral certificate, but she did not do so. On the part of the appellant-widow, several documents have been annexed in relation to the treatment of her husband before going to Manipal Hospital, Bengaluru to show that no definitive diagnosis had been made by the

doctors treating him at AGMC & GBP Hospital, Agartala which are the best hospitals in the town.

4. An interlocutory application has been filed enclosing additional documents in support of the prolonged treatment that the deceased had undergone at Agartala which remained inconclusive of the disease he was suffering. It is the case of the appellant's husband that despite such a prolonged treatment, the doctors at AGMC & GBP Hospital, Agartala did not even care to refer him to a higher centre and seek approval of the Standing Medical Board. It was in such a precarious state of health, the deceased had gone for a proper diagnosis of his disease little knowing that he was suffering from such an incurable disease like cancer. It was only upon further investigation at the Manipal Hospital, Bengaluru and then before Tata Memorial Centre at Mumbai, his disease was diagnosed. The deceased had taken Station Leave on medical ground for better treatment outside the State on 24.11.2020 which is at Annexure-G to the IA No.02/2024. It is submitted that the learned Writ Court could not properly appreciate the circumstances in which the deceased could not seek referral from the Standing Medical Board before going for diagnosis and treatment at Manipal Hospital, Bengaluru. It is also submitted that the impugned order has been passed in a cryptic manner without proper appreciation of the attendant background facts and circumstances in which prior approval of the Standing Medical Board, AGMC & GBP Hospital could not be taken. However, it is submitted that post-facto approval in such cases is also permissible if the patient is in a state of emergency for undergoing treatment and has taken station leave. It is further submitted that for due

consideration, the matter may be remitted for seeking post-facto approval from the Standing Medical Board, AGMC & GBP Hospital, Agartala and seek reimbursement for his treatment outside the State.

5. Learned senior counsel for the appellant has referred to a judgment and order dated 04.05.2018 rendered by this Court in the case of *Sri Uttam Pal v. The State of Tripura & others* passed in *WP(C) No.1479 of 2017* [Annexure-13 to the memo of appeal]. The learned Court has emphasised that in cases where medical facilities are not available in the State of Tripura and there is no option left except to take treatment either from the hospital which is approved by the Government under its notification dated 25.10.2013 or from a private medical hospital of his choice, he would be entitled to reimbursement of the medical expenses incurred which is admissible under the approved medical hospital or from a private hospital from where the treatment is taken whichever is lower. Prior approval of the medical board may not be a mandatory requirement in such circumstances. It is submitted that the order of the learned Writ Court may be set aside and the impugned order of rejection dated 26.03.2021 [Annexure-12] may be quashed and the matter may be remitted to the Standing Medical Board to consider the claim of the appellant for post-facto approval in accordance with the medical reimbursement policy of the State applicable to the case of the deceased employee, who was a Junior Engineer under the Tripura Forest Development and Plantation Corporation Limited.

6. Mr. D. Sharma, learned Additional Government Advocate for the respondents-State, has supported the order of rejection dated 26.03.2021. He submits that reliance upon the medical reimbursement policy dated 22.12.2022

on behalf of the appellant is not correct since it operates prospectively. Case of the appellant's husband was considered by the competent authority i.e. Director, Health Services, Government of Tripura on the basis of the applicable policy in vogue when the death occurred on 23.09.2021. He submits that treatment at any higher centre outside the State is reimbursable only if the required conditions under the medical reimbursement policy of the State are fulfilled. Therefore, the impugned order of rejection dated 26.03.2021 passed by the Director of Health Services, Government of Tripura does not suffer from any illegality or non-application of mind.

7. We have considered the submission of learned counsel for the parties and taken note of the relevant material facts placed from record. We have also taken into account additional documents brought on record by way of IA No.02/2024 to substantiate the prolonged treatment undertaken at AGMC & GBP Hospital, Agartala by the deceased. His treatment at Agartala remained inconclusive as to the correct diagnosis. The impugned order of rejection dated 26.03.2021 has rejected the claim of the appellant for medical reimbursement of the treatment of her husband at Manipal Hospital, Bengaluru and Tata Memorial Centre, Mumbai as there was no reference by the Standing Medical Board. Whether as per the applicable policy, post-facto approval of the Standing Medical Board was permissible in such circumstances is not clear on a reading of the impugned order. It cannot be lost sight of that appellant is a widow whose husband died during treatment which remained inconclusive for a considerable length of time at one of the best hospitals at Agartala i.e. AGMC & GBP Hospital. The doctors at the AGMC & GBP Hospital did not deem it

appropriate to refer him to a higher centre for treatment and seek approval of the medical board. In such circumstances, the deceased was left with no other option but to go on his own for proper diagnosis and treatment in a higher centre outside the State i.e. Manipal Hospital, Bengaluru and Tata Memorial Centre, Mumbai. It was during such investigation at Manipal Hospital, Bengaluru and finally at Tata Memorial Centre, Mumbai that the correct diagnosis was made. The deceased was suffering from an advanced stage of metastasis high-grade urothelial carcinoma for which immediate chemotherapy was advised and started. The patient had become so critically ill that he could not bear further doses of chemotherapy beyond two doses and had to be transferred back to his hometown for further treatment. In those circumstances, it can hardly be said that the requirements of obtaining referral from the Standing Medical Board of the AGMC & GBP Hospital was mandatory on the part of the deceased employee, who could not have anticipated such a fatal turn of events. Medical reimbursement policy of the State is framed as a social security measure to cater to the needs of its employees for proper medical treatment whether inside the State or outside the State. Such claims, therefore, need to be considered keeping in mind the beneficial nature of the medical reimbursement policy of the State. The impugned order dated 26.03.2021 has rejected the claim of the appellant for medical reimbursement of the treatment of her husband at Manipal Hospital, Bengaluru and finally at Tata Memorial Centre, Mumbai only for the reason that there was no referral from the Standing Medical Board, AGMC & GBP Hospital, Agartala, where only the deceased was undergoing treatment for a considerable length of time. Whether in such a case post-facto approval could be obtained under the prevalent

medical reimbursement policy of the State is required to be seen by the Standing Medical Board. In those circumstances, we are of the view that the matters require reconsideration at the appropriate level. Consequently, the order of rejection dated 26.03.2021 passed by the Director, Health Services [Annexure-12] is quashed. The impugned order dated 06.01.2023 passed by the learned Writ Court is set aside. Appellant is allowed liberty to approach the Standing Medical Board, AGMC & GBP Hospital, Agartala for seeking post-facto approval on the treatment of her husband in the centre outside the State with all supporting documents. Needless to say, if post facto approval is granted, appellant would make a claim for medical reimbursement before the competent authority which may be considered, in accordance with law. Let the consideration on the claim of the appellant be undertaken within a reasonable period, preferably 12(twelve) weeks from the date of receipt of copy of this order along with a fresh application.

8. With the aforesaid observations and directions, the instant appeal is disposed of. Pending application(s), if any, shall also stand disposed of.

(S.D. PURKAYASTHA), J

(APARESH KUMAR SINGH), CJ

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