

**HIGH COURT OF TRIPURA
AGARTALA**

WP(C) No.301 of 2024

Manik Dasgupta

.....Petitioner(s);

Versus

The State of Tripura & others

.....Respondent(s)

For Petitioner(s) : Mr. Kawsik Nath, Advocate.

For Respondent(s) : Mr. Kohinoor N. Bhattacharyya, G.A.,
Mrs. Riya Chakraborty, Advocate.

HON'BLE THE CHIEF JUSTICE MR. APARESH KUMAR SINGH

Order

02/05/2024

Heard Mr. Kawsik Nath, learned counsel for the petitioner and Mr. Kohinoor N. Bhattacharyya, learned Government Advocate for the respondents-State.

Petitioner has approached this Court with a prayer to direct the respondent to grant ex-post facto approval of the treatment undertaken by the petitioner at ILS Hospital, Agartala in connection with respiratory distress euere DNS (L) COM (L) disease as a result of which, he was suffering from breathing and needed immediate nasal surgery and for reimbursement of his medical bills. The nasal surgery was done on 23.05.2023 and he was discharged on 24.05.2023. The medical treatment bills for an amount of Rs.55,054/- raised by the ILS Hospital, Agartala were submitted in General form No.49, supported by necessary documents, discharge certificate, cash memos, etc. for ex-post facto approval and payment of MR bills which has been regretted by the impugned order at Annexure-6 dated 01.08.2023 issued by the Chairman, Standing Medical Board, AGMC & GBP Hospital, Agartala with the opinion

that ex-post facto referral cannot be considered under clause (b) of the memorandum dated 22.12.2022.

Learned counsel for the petitioner has relied upon a decision rendered by the Single Bench of this Court presided by the then Hon'ble the Chief Justice in the case of *Sri Uttam Pal v. The State of Tripura & others* passed in *WP(C) No.1479/2017* dated 04.05.2018 and submitted that the learned Court opined that the precondition of seeking referral from the Standing Medical Board before seeking to avail medical treatment under notification dated 25.10.2013 is directory in character subject to fulfillment of the conditions prescribed in availing reimbursement of medical expenses under the said notification. Where the patient has taken treatment from an approved hospital or the hospital of his choice, he would be entitled for reimbursement of medical expenses incurred to the extent of such medical expenses if incurred in taking treatment from the approved hospital or from a private hospital where he has undertaken treatment whichever is lower. It is submitted that the application of the petitioner for medical reimbursement has been rejected without proper application of mind. Therefore, the petitioner has approached this Court. It is submitted that the respondents may be directed to reconsider the prayer of the petitioner in accordance with law also taking into account the decisions on the point and the relevant notifications of the State Government.

Mr. Kohinoor N. Bhattacharyya, learned Government Advocate for the respondents-State, submits that since the matter has been taken up for the first time, instructions are awaited. The claim of the petitioner has been

regretted as the government notification dated 22.12.2022 does not provide for ex-post fact referral.

On consideration of rival submission of the parties, it appears that the memorandum dated 22.12.2022 at Annexure-8 at clause (b) provides for medical reimbursement of expenses to Group-A and Group-B of the State Government employees and their dependent family members if they avail treatment in any enlisted referral hospital inside/outside the State approved by the State Government without referral of the Standing Medical Board subject to the condition that ex-post facto approval shall be given only in case of emergency or acute illness arising while the govt. servant is staying outside the State with station leave permission. In such case a certificate stating the emergency status and ICD diagnosis has to be obtained from the treating hospital. If treatment is undertaken in any such hospital, reimbursement would be at CGHS rate.

Petitioner claims to be a Group-A employee working on the post of TCS Grade-II, DRCS, West Tripura i.e. under the Cooperation Department. Petitioner has also placed reliance upon a decision rendered by a Coordinate Bench of this Court earlier in the case of *Sri Uttam Pal* (supra) where certain observations have been made in respect of the precondition of seeking referral from Standing Medical Board by an employee seeking availment of medical treatment. The same has been held to be directory in character. In that view of the matter, this Court at this stage feels it proper to direct the competent authority/ the Chairman, Standing Medical Board, AGMC and GBP Hospital, Agartala to reconsider the case of the petitioner in accordance with law and in

the light of the decision relied upon by the petitioner within a reasonable time, preferably 8(eight) weeks from the date of receipt of copy of this order. Needless to say during such reconsideration, respondent No.3 would not be inhibited by the earlier order issued at Annexure-6 dated 01.08.2023. Let it be made clear that this Court has not expressed any opinion on the merits of the case.

The instant petition is disposed of with the aforesaid observations and directions.

(APARESH KUMAR SINGH), CJ

