

**HIGH COURT OF TRIPURA
AGARTALA**

WA No. 130 of 2023

- 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.

..... Appellant(s)

(Respondents No.1 to 6 in Writ Petition)

V E R S U S

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

..... Respondent(s)

(Petitioner in Writ Petition)

For Appellant(s) : Mr. D Sarma, Addl. GA.

For Respondent(s) : Mr. P Roy Barman, Sr. Adv.
Mr. S Bhattacharjee, Adv.
Mr. K Nath, Adv.
Mr. D Paul, Adv.

WA No.155 of 2023

1. The State of Tripura, through the Secretary, to the Government of Tripura, Department of School Education, Civil Secretariat, P.O. Secretariat, Pin-799010.

2. The Director of Secondary Education, Government of Tripura, Shiksha 13havan, Office Lane, Agartala, P.O. Agartala, P.S. West Agartala, Pin-799001.

- 3. Additional Director of Secondary Education Government of Tripura**, Shiksha Bhavan Office Lane, Agartala, P.O. Agartala, Pin-799010.
- 4. The District Educational Officer**, Udaipur, P.O. & P.S. RK Pur, District-Gomati, Tripura, Pin-799120.
- 5. The Headmaster**, K.B. Institution, Udaipur, P.O. & P.S.- RK Pur, Udaipur, Dist- Gomati, Tripura, Pin- 799120.

.....Appellants
(Respondents No.1 to 6 in Writ Petition)

V E R S U S

Shri Dilip Das, S/o Late Aswini Kumar Das, A resident of East bank of Jagganath Udaipur, P.O. & P.S.- RK Pur, District- Gomati, Tripura, Pin-799120.

.....Respondent
(Petitioner in Writ Petition)

For Appellant(s)	:	Mr. D Sarma, Addl. GA.
For Respondent(s)	:	Mr. S M Chakraborty, Sr. Adv. Ms. P Chakraborty, Adv. Ms. M Chakraborty, Adv.

BEFORE
HON'BLE THE CHIEF JUSTICE MR. APARESH KUMAR SINGH
HON'BLE MR. JUSTICE S. DATTA PURKAYASTHA

Order

24.09.2024

Heard Mr. D Sarma, learned Addl. GA appearing for the State and the learned counsel appearing for the writ petitioners.

[2] The appellant-State is aggrieved by the impugned judgment dated 13th July, 2023 passed in WP(C) No.1096 of 2022 (in Writ Appeal No.130/2023) and the judgment dated 13th July, 2023 passed in WP(C) No.419 of 2023 (in WA No. 155 of 2023) which was disposed of in terms of judgment and order dated 13th July, 2023 passed in WP(C) No. 1096 of 2022.

[3] The case of the writ petitioners was of medical reimbursement. In both the cases, the treatment was incurred before coming into force of the medical reimbursement policy dated 22nd December, 2023 but the cases of both the writ petitioners were considered and rejected after coming into force of the policy dated 22nd December 2022.

[4] The medical reimbursement policy contained in memorandum dated 22nd December, 2022 (Annexure-16 to the Writ Appeal No.130/2023) in the opening paragraph itself records that in supersession/partial modification of all existing guidelines which are also referred to therein, the Government of Tripura has been pleased to lay down the following guidelines with regard to admissibility of medical expenses to State Government officials inside/outside the State:

(a) Group-A and Group- officials of the State Government employees and their dependent family members when referred by the Standing Medical Board to a particular listed referral institution/hospital as Annexed (A) for medical treatment but undertakes the treatment at some other Institution /Hospital of his/her own choice/volition, he/she shall be entitled to get reimbursement for treatment /investigation is undertaken at the rates of their referred institution including journey expenses for the purpose as existing TA Rules

(b) Medical re-imbursement expenses to Group-A and Group-B of the State Government employees and their dependent family members may avail treatment in any enlisted referral hospital inside /outside the State approved by the State Govt. without referral of the Standing Medical Board subject to 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.

(c) The dependent family members of State Government Group-A & B employees, who are not residing with the concerned government 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 rates.

(d) Group-C & D officials of the State Government employees when referred by the Standing Medical Board to a particular listed referral institution/hospital for medical treatment but undertakes the treatment at some other Institution /Hospital of his/her own choice/volition, he/she shall be entitled to get reimbursement for treatment/investigation(s) undertaken at the rates of their referred institution including journey expenses for the purpose as existing T.A. Rules.

(e) Medical reimbursement expenses to Group-C & D of the State Government employees himself/herself or any member of his/her family suffers from cancer and is referred to a particular medical institution/hospital outside the State on being referred by the State Standing Medical Board, Govt. of Tripura but undertakes the treatment at some other Institution/Hospital of his/her own choice/volition, he/she shall be entitled to get reimbursement for treatment/investigation(s) undertaken at the rates of their referred institutions including journey expenses for the purpose as existing T.A. Rules.

(f) In case of all categories of the State Government employee (Group-A, B, C and D), while being outside the State in connection with official works/ for his own duty, with station leave permission where he/she fell ill and requires medical treatment in any health institutions, will be eligible to get reimbursement of treatment expenses at latest CGHS rates subject to condition that it is applicable in acute emergency cases like Chest pain, Cardiac Failure, Brain Stroke, Trauma & Head Injury and 1 time Cancer etc.

(g) The reimbursement facility to all categories of the State Government employees (Group-A, B, C and D) for implanting of Pacemaker shall continue to be admissible, subject to limit therein vide Finance Department Memo No.F.30(1)-FIN(G)/2009, dated 12-05-2009 and in continuation of this Deptt. Memo No. F.5(2)-FIN(G)/93, dated 24th May, 1997.

(h) The State Government employees who are posted in Tripura Bhavan at Guwahati, Kolkata and New Delhi and require medical treatment for his/her own in any health institution, will be eligible to get reimbursement of treatment expenses at latest COHS rates and dependent family members of Group-A & B employees, require medical treatment in any health institution, will be eligible to get reimbursement of treatment expenses at latest CGHS rates or any hospital of choice whichever less.

(i) Reimbursement of cost of medical expenses of pensioners and spouse referred by the Standing Medical Board, Govt. of Tripura for treatment outside the State once in 5(five) years subject to ceiling of Rs.50,000/- (Rupees Fifty thousand) only. The other terms & condition of the original OM No. F.8(3)-FIN(G)/88. dated 25 June, 1991 shall remain unchanged.

(j) The empanelment of referral hospitals outside the State from time to time approved by the Government is Annexed (A).

(k) Finance Department, Govt. of Tripura has concurred the proposal of the Department vide U.O. No.170-FIN (EXPDT-II)/2022, dated 21-11-2022. The Council of Ministers

approved the proposal of the department, dated 03-12-2022. This order shall take with immediate effect.

[5] In both cases the wives of Group-C employees *i.e.* the writ petitioners, had undergone treatment outside the State upon referral of the Standing Medical Board and the treatment turned out to be successful. The Medical bills had not been reimbursed as the December, 2022 Policy, specifically Clause-(e) provides for medical reimbursement of expenses to Group-C & D employees of the State Government employees himself/herself or any other member of his/her family if the patients suffers from cancer and is referred by the Standing Medical Board, Government of Tripura to a medical institution/hospital outside the State and undertakes the treatment at some other institution/hospital of his/her choice/volition, at the rates of the referred institutions, including journey expenses as per existing TA rules.

[6] Clause (e) of this policy is different to Clause (b) of the same policy which provides for medical reimbursement/expenses to Group A & Group B State Governments employees and their dependent family members without referral of the Standing Medical Board to any enlisted referral hospital inside/outside the State, approved by the State Government in case of emergency or acute illness arising when the Government servant is staying outside the State with station leave permission. In such case, the 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.

[7] The learned writ court, in the impugned judgment has, noticing the difference in the relevant Clause (f) & (b) concerning Group- C & D employees on the one hand and the Group- A & B

employees and the dependants of the both category of employees on the other hand found that while reimbursement is admissible to Group- C & D employees or their family members only for treatment of Cancer outside the State, Group A & B employees are entitled for reimbursement for any other disease also.

[8] Therefore, the learned Writ Court has asked the respondents to reconsider the issue in the light of the discussion made therein above.

[9] We have heard the learned counsel for the parties. The affidavit of the appellant-State before the Writ Court does not, in so many words, contain the rationale for making such a distinction in the matter of medical reimbursement for treatment of Group- C & D employees or their family members suffering from the disease of Cancer only, in contradistinction to Clause (b) of the said policy where Group- A & B employees and the dependants are entitled to medical reimbursement for any such disease.

[10] After hearing of the learned counsel for the parties, since the learned Writ Court has not straightaway quashed the relevant Clause (e) of the 2022 policy but only directed the State Government to reconsider it, we are also of the opinion that no interference is required, at this stage.

[11] However, learned counsel for the State submits that observations in the impugned judgment that the policy is discriminatory, may be modified. The respondents may be allowed to revisit the policy un-influenced by any observations made by the learned Writ Court. We accept the contention of learned counsel for the State.

[12] It is clarified that the respondents would reconsider the relevant clause of the reimbursement of December, 2022 policy uninfluenced by any observations made by the learned Writ Court on its own merits and the rationale, if any, in specifying treatment of 'cancer' as reimbursable to Group C & D employees and their family members in contradistinction to such facilities extended to Group A & B employees and their dependent family members for other diseases also.

The writ appeals are disposed of.

Interim order(s), if any, stand vacated.

(S. DATTA PURKAYASTHA) J (APARESH KUMAR SINGH) CJ



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