



CWP-14703-2024 (O&M)

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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

(108)

CWP-14703-2024 (O&M)
Date of Decision:-27.09.2024

R.S. BHANOT

.....Petitioner

Versus

MANAGING DIRECTOR, FOOD CORPORATION OF INDIA AND
ORS

.....Respondents

CORAM: HON'BLE MR. JUSTICE ALOK JAIN

Present: Mr. Deepak Jindal, Advocate for the petitioner.

Mr. Ish Puneet Singh, Advocate for the respondents.

ALOK JAIN, J. (Oral)

The present petition has been filed *inter alia* seeking directions to the respondents to reimburse the medical bills of the petitioner and also to reimburse the medical bills to be submitted in future by invoking the amendments carried in Clauses 6.8 and 6.9 vide circular dated 15.12.2022 (Annexure P-2).

2. Briefly the facts of the matter are that the petitioner retired as AGM, Food Corporation of India on 31.10.2010 but suffered from Adenocarcinoma Right Lung Stage III B, chronic disease (cancer) in June, 2023. The petitioner was initially admitted on 22.06.2023 till 30.09.2023 and was treated as an Indoor Patient, however, subsequently the treatment of the petitioner was continued by conservative mode and was discharged



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from the hospital with advice to take the medicine and, he is still undergoing his medical treatment. The Doctor has prescribed certain medicines to the petitioner which were extremely costly and the petitioner had purchased these medicines out of his pocket and later sought the reimbursement of the medical expenditure which is not being reimbursed by wrongly applying the incorrect clauses of the scheme in force to the case of the petitioner.

3. Learned counsel for the petitioner has opened his arguments that the Post-Retirement Medical Scheme (PRMS for brevity) was propounded on 30.12.2016, (**Annexure R-1**) whereby, the employees of FCI were given the benefits under the scheme as part of the superannuation benefits of which the petitioner is admittedly a member. He submits that the above said scheme was amended from time to time and vide the amendment carried out on 15.12.2022 especially in Clause 6.5 annual ceiling of OPD limit which was initially Rs. 18,000/- was enhanced to Rs. 32,000/- and as per clause 6.8 of the scheme the additional special life time ceiling for specific disease was enhanced to Rs. 20,00,000/- and under Clause 6.9 additional ceiling for exceptional cases of life saving indoor treatments was enhanced to Rs. 15,00,000/- which was initially Rs. 4,00,000/- and Rs. 3,00,000/- respectively in the original scheme.

4. Learned counsel for the petitioner has argued that the authorities in their wisdom purposefully took away the word “indoor patient” while carrying out amendment in Clause 6.8 and therefore, due to which the case of the petitioner would fall under Clause 6.8 of the scheme



and the two fold reasons and arguments raised are that the authorities duly recorded in the amendment carried out in Clause 6.9 the word “indoor treatment”, whereas, the said word was not repeated in Clause 6.8 and further relies upon the judgment passed by the Hon’ble Division Bench of Jharkhand High Court in LPA-194-2021 relying upon the judgements of the Hon’ble Apex Court especially in the case of *“Executive Engineer, and another Vs. Sri Seetaram Rice Mill”, [(2012) 2 SCC 108]* has submitted that this has to be considered as purposive construction so as to widen the ambit of benevolent scheme which is only to protect the adversaries to the employees. He also relies upon the judgment passed by Hon’ble Division Bench of this Court in the case of *“Ravi Kant Vs. State of Haryana”, 1998 (3) PLR 160* to impress upon his arguments that the word “indoor treatment” and “outdoor treatment” will have to be construed harmoniously. The present case does not concern a scenario where the petitioner was never admitted to the hospital, nor does it involved seeking the reimbursement of treatment pertaining to a condition for which petitioner was never admitted. The learned counsel for the petitioner maintains that once the treatment is initiated, even as an extension of prior hospitalization it must be treated as a part of continuous treatment process therefore the petitioner, who was at one point of time, was admitted as an indoor patient then his entire treatment has to be treated collectively. The mere fact that the petitioner has been discharged from the hospital would not be a stand-alone reason to deny the benefit of the scheme to the petitioner. The reason for which the patient is discharged from the hospital are manifold such as



high risk of infection overcrowding of hospital, stability of the patient and keeping in mind that patient more serious than the petitioner could be waiting for admission in the hospital and their treatment. It is not the case where the petitioner has left the hospital against medical advice. Nonetheless once it is established that it is a continuous treatment then the bifurcation drawn, as to whether the patient is an “indoor patient” or an “outdoor patient” would lose its sheen. He has also argued that any other classification of “indoor patient” and “outdoor patient” would be unreasonable classification and the only apparent classification is that the treatment under OPD is separate from the ailment being suffered by the person while being an indoor patient. He has raised an argument that the person’s rights as enshrined under Article 21 of the Constitution of India are to be protected and they are sacrosanct much less to save one’s life. He submits that it is the duty of the state to provide and secure the health of its citizens and that is the basic objective of propounding such a benevolent scheme. He submits that the scheme being a beneficial piece of legislation has to be construed widely rather than narrowing its approach. Therefore, in the larger aspect of the matter also, the relief deserves to be granted to the petitioner.

5. Per contra, learned counsel for the respondents has opened his arguments that only the amendment cannot be read in isolation and the same has to be read with the original scheme propounded by the authorities. He further submits that the scheme was based on the employer’s contribution as detailed in Clause 5 of the scheme and therefore, expanding



the arena of the applicability of the scheme would be detrimental to the accumulated fund available with the respondents. He further submits that the amendments are with respect to the upgradation in the ceiling of the amounts under various heads which the authorities undertake as an exercise from time to time to accommodate the change in the cost of expenses incurred by the beneficiaries. He further submits that the petitioner would fall under Clause 6.5 as he is seeking an outdoor treatment of his ailment and reiterates the above-said Clause. He further submits that all the expenses of the petitioner as “indoor patient” which he incurred while being admitted in the hospital, have already been reimbursed as to the extent of his being an indoor patient and even subsequent thereto, the limit of Rs. 32,000/- available to him under Clause 6.5 has been extended, out of which still Rs. 17,000/- is available in his account which can be immediately released. He submits that the petitioner is not entitled and the case of the petitioner does not fall under the ambit of Clauses 6.8 and 6.9 as being propounded by the petitioner.

6. Heard learned counsel for the parties at length and for the ready reference, the relevant provisions of the scheme i.e. Clauses 6.5, 6.6, 6.8 and 6.9 are reproduced herein below:

6.5 The members should also be eligible for reimbursement of outdoor treatment in India of specified prolonged diseases for self, spouse and disabled depended children upto a maximum ceiling of Rs 18000 per annum subject to production of certificate from a specialized doctor of Govt. Hospital/empanelled hospital/FCI Medical Officer for the



specified diseases approved by the Board in its 347th meeting held on 12.6.2012 viz.

- i. Heart ailments and FCU Hypertension*
- ii. Diabetes mellitus*
- iii. Paralysis / Cerebrovascular attack*
- iv. FUC Thyroid disorder*
- v. Kidney disorders*
- vi. Bronchial Asthma*
- vii. Cancer/Malignant Tumors*
- viii. Haemolytic Disorder*
- ix. Tuberculosis*
- x. Rheumatoid Arthritis & (OA) Osteo Arthritis*
- xi. Osteoporosis*
- xii. Thalassemia*
- xiii. Chronic Liver Disease*

6.6 The ceiling for indoor (IPD) and outdoor (OPD) treatment shall be Rs. 1 lakh and Rs. 18000 respectively per financial year per member comprising of employees, spouse and dependent disabled children, to be considered separately without any linkage between the two.

6.8 An additional special lifetime ceiling of Rs 4,00,000 will be applicable to a member for indoor treatment of self/spouse/dependent children (as specified in this scheme) for the following specified major diseases, provided the treatment is done at a Govt. hospital or at a FCI empanelled hospital or such other hospital of national repute as may be notified by CMD, FCI for this purpose:

- (a) Bypass surgery of heart/angioplasty/valve replacement*
- (b) Pacemaker implant*
- (c) Neuro Surgery*
- (d) Kidney/renal/liver/bone-marrow/other organ transplant*
- (e) Joint replacement and surgery*
- (f) Pulmonary valvotomy/surgical treatment of lung*
- (h) Cancer*

A member would be able to avail this option either at one go or on multiple occasions subject to the overall lifetime limit.



6.9 *In addition, for exceptional cases of life-saving indoor treatments, irrespective of the disease, the Managing Director may grant special additional reimbursement upto a maximum of Rs. 3,00,000 (over and above the limits specified at 6.6, 6.7 and 6.8 above) provided the treatment is done at a Govt. hospital or at a FCI empanelled hospital. Such cases be forwarded through the GM (Region) and ED (Zone) concerned alongwith specific recommendation. Such cases should also have the recommendation of the Medical Officer of the Zone/Hqrs. This option would be available only after the limits specified at (6.6, 6.7 and 6.8 above) to the extent available have been utilized by the member.*

7. It would also be relevant to reproduce the amendment carried out by the authorities on 15.12.2022 which reads as under:

“6.5 a) The annual ceiling of OPD limit for specified prolonged diseases shall be Rs. 32,000/- (Rupees thirty two thousand only)

b) Modified list of prolonged diseases for OPD is enclosed as Annexure I.

6.6 Annual ceiling of IPD limit shall be Rs. 1,70,000/- (Rupees one lakh seventy thousand only).

6.8 Additional special life-time ceiling for specified diseases shall be Rs. 20,00,000/- (Rupees twenty lakhs only).

“Macular Degeneration” has been added in the existing list of specified diseases.

6.9 Additional Ceiling for exceptional cases of life saving indoor treatments shall be Rs. 15,00,000/- (Rupees fifteen lakhs only).”

8. A perusal of the amendment carried out clearly demonstrates that the authorities in their wisdom, did not include the word “indoor



treatment” in Clause 6.8. The Courts cannot ignore the rising cost of medication and the increasing complexities of ailments today. A person suffering from such a disease face many other difficulties and medical requirements that evolve over the time which are due to the ailment a person is suffering. It cannot be said with conviction that a person if he is being treated for a particular disease cannot contract any other subsequent disease as an outcome or an offshoot of the medication or treatment being carried out for the said purpose.

9. The distinction between treating a person as an “indoor patient” or “outdoor patient” has to be adjudicated and considered in the larger aspect. Once it is established that a person has undergone treatment as an indoor patient for a considerable long time for a life-threatening disease, the treatment continued for the said disease post his discharge from the hospital cannot be simplicitor be declared to be a treatment which would fall under the category of an outdoor treatment. For the purpose of better understanding for the case hypothetically, if the petitioner would have got himself admitted in the hospital to take one tablet and got discharged the next day, the case of the petitioner would have fallen within the ambit of Clauses 6.8 and 6.9 and just because of his age and the ill-health and weakness, if the petitioner is unable to get himself admitted in the hospital and is taking a conservative treatment being at home cannot be a ground to not consider the case of the petitioner under the relevant Clause. The claim has to be considered harmoniously and positively with

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intent to support the employee who has discharged his duties all his life for the department.

At the outset the issue needs to be decided is whether the amendment carried out vide Annexure P-2 of the scheme Annexure R-1 is to be taken as purposive construction. The authorities have in their wisdom purposefully removed the word “indoor treatment” in Clause 6.8 while amending the same although the word “indoor treatment” finds mentioned in the amendment carried out for Clause 6.9 which demonstrate that the authorities have exercise and deliberated upon the issue and have taken a positive stand to amend clause 6.8 so as to widen the scope of the financial support to its employees. Therefore clause 6.8 has to be read without the binding effect or rider of it being applicable only for “indoor patient”

At this juncture of life, he cannot be made to run from pillar to post to secure his medical treatment. Considering the judgment passed by the Hon’ble Jharkhand High Court, wherein, the entire law laid down by the Hon’ble Apex Court have also been considered, and having a harmonious view, the authorities are directed to consider the case of the petitioner under Clauses 6.8 and 6.9 and reimburse the bills of the petitioner towards his treatment. Accordingly, the present petition stands disposed of, subject to the verification and veracity of the medical bills submitted by the petitioner. The petitioner shall also file an appropriate undertaking that the said medicines are not available at the Ayush Centre.

10. As regard the CM-14355-CWP-2024, whereby, the petitioner has sought directions to atleast release a sum of Rs. 3,00,000/- during the



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pendency of the writ petition. The respondents have taken a stand that the petitioner cannot be granted the amount as there is ceiling of Rs. 32,000/-, as per Clause 6.5 of the scheme. The stand of the respondents cannot be accepted in light of the findings returned above as not only Clause 6.5 would be applicable but clause 6.8 and 6.9 shall also come into play and, therefore, till the time the Authorities take a decision as directed above to extend the relief to the petitioner by invoking Clauses 6.8 and 6.9 of the scheme the respondents shall release a sum of Rs. 3,00,000/- to the petitioner within 15 days from today and decide the case of the petitioner by invoking Clauses 6.8 and 6.9 of the scheme within four months from today.

11. Pending CM also stands disposed of accordingly.

(ALOK JAIN)
JUDGE

27.09.2024
Parul

Whether speaking/reasoned:-	Yes
Whether Reportable:-	Yes