

HIGH COURT OF TRIPURA
AGARTALA

WP(C) No.698 of 2023

Baishakh Debbarma,

Son of late Bir Kumar Debbarma, resident of Vill Krishna Kobra Para, P.O. NIT, Agartala, P.S. Jirania, Dist West Tripura, Pin 799046, Age 46 years.

..... **Petitioner(s)**

- **V e r s u s** -

- 1. The State of Tripura,**
Represented by the Secretary, Health & Family Welfare Department, Govt. of Tripura, New Secretariat Complex, P.O. Secretariat Complex, Agartala, West Tripura.
- 2. The Secretary,**
Finance Department, Govt. of Tripura, New Secretariat Complex, P.O. Secretariat Complex, Agartala, West Tripura.
- 3. The Director of Health Services,**
Govt. of Tripura, PN Complex, Gurkhabasti, P.O. Kunjaban, Agartala, West Tripura.
- 4. The Commissioner of Taxes,**
Govt. of Tripura, PN Complex, Gurkhabasti, P.O. Kunjaban, Agartala, West Tripura.

.....**Respondent(s)**

For the Petitioner(s)	:	Mr. P. Roy Barman, Senior Advocate. Mr. S. Bhattacharjee, Advocate.				
For the Respondent(s)	:	Mr. Kohinoor N. Bhattacharya, G.A.				
Date of hearing & delivery of Judgment & Order	:	30th April, 2025.				
Whether fit for reporting	:	<table border="1" style="display: inline-table; border-collapse: collapse;"><tr><td style="padding: 2px 10px;">YES</td><td style="padding: 2px 10px;">NO</td></tr><tr><td style="padding: 2px 10px;"></td><td style="padding: 2px 10px; text-align: center;">√</td></tr></table>	YES	NO		√
YES	NO					
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HON'BLE MR. JUSTICE S. DATTA PURKAYASTHA
JUDGMENT & ORDER (ORAL)

Heard Mr. S. Bhattacharjee, learned counsel for the petitioner. Also heard Mr. Kohinoor N. Bhattacharya, learned G.A. for the State-respondents.

[2] The petitioner is serving as Lower Division Clerk, (Group-C) under respondent No.4. According to him, his wife, Smt. Gita Debbarma in the last part of June, 2022 suddenly became ill and experienced severe chest pain and shortness of breath. She was admitted in GBP Hospital, Agartala wherein she was diagnosed with 'RHD severe MS, with Modcholelithiasis'. According to the petitioner, as per the advice of doctor of GBP Hospital his wife was taken to Apollo Hospital, Chennai after taking referral certificate from the standing medical board as necessary treatment of such disease was not available in Tripura. Accordingly, the wife of the petitioner attended Apollo Hospital, Chennai on 20.07.2022 and was admitted therein as indoor patient till 30.07.2022 for 11 days. The petitioner, thereafter, submitted application for medical reimbursement amounting to Rs.5,84,246/- inclusive of transportation cost of Rs.60,765/-. Petitioner grieves that despite the bill was duly certified by the competent authority and supported by all the prescriptions and treatment papers, the Director of Health Services regretted the same vide letter dated 29.12.2022 (Annexure-5) on the ground that family members of Group-C and Group-D employees were not entitled to any medical reimbursement other than against the treatment relating to the disease cancer. Thereafter, vide letter dated 11.05.2023 (Annexure-6), the respondent no.4 also conveyed the said information to the petitioner. In that backdrop, the present petition has been filed by the petitioner seeking the following redresses:

- a) *Issue Rule upon the Respondents to show cause as to why a Writ in the nature of Mandamus and/or any other order/orders shall not be issued whereby quashing and cancelling the Letter, dated, 29.12.2022, issued by the Ex-Officio Addl. Secretary & Director of Health Services, Govt. of Tripura.*
- b) *Issue Rule upon the Respondents to show cause as to why a Writ in the nature of Mandamus and/or any other order/orders shall not be issued whereby quashing and cancelling the letter, dated, 11.05.2023, issued by the Commissioner of Taxes, Govt. of Tripura.*
- c) *Issue Rule upon the Respondents to show cause as to why a Writ in the nature of Mandamus and/or any other order/orders shall not be issued whereby reading down/striking down the offending portion of Para-2.A(i) of the Memo, dated, 09.08.2005, issued by the Deputy Secretary, Health & Family Welfare Department, Govt. of Tripura, so far denial of medical reimbursement facilities in respect to any member of the family of Group-C & Group-D government employees other than disease of Cancer and in place thereof substitute the word 'illness of any kind of diseases' therein.*
- d) *Issue Rule upon the Respondents to show cause as to why a Writ in the nature of Mandamus and/or any other order/orders shall not be issued whereby directing the Respondents to give the benefit of Medical Reimbursement Bill submitted by the Petitioner amounting to Rs.5,84,246/- (including to & fro journey amounting to Rs.60,765/- submitted on 17.08.2022, to the Petitioner in connection with the treatment of his wife, Smt. Gita Debbarma, at Apollo Hospital, Chennai, being referred by the Standing Medical Board AGMC & GBP Hospital, vide certificate, dated, 15.07.2022.*
- e) *Issue Rule upon the Respondents to show cause as to why a Writ in the nature of Mandamus and/or any other order/orders shall not be issued whereby directing the Respondents to allow MR Bill & TA bill to the Petitioner in connection with the treatment of his wife, dependent family member, like that of Group-A & Group-B employees, in respect of all types of diseases inside/outside the State of Tripura.*
- f) *Issue Rule upon the Respondents to show cause as to why a Writ in the nature of Mandamus and/or any other order/orders shall not be issued whereby directing the Respondents to 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 diseases' therein.*
- g) *Make the rules absolute.*

- h) Call for records.*
- i) Pass any further order/orders as this Hon'ble High Court considered fit and proper.*

[3] Mr. S. Bhattacharjee, learned counsel refers to a notification bearing No.F.5(10)-Fin(G)/75-1 dated 09.08.2005 (Annexure-7) wherein it is envisaged that when a Group-C or Group-D Government employee himself/herself or any member of his/her family suffers from cancer and is referred to a medical institution/hospital outside the State by the Standing Medical Board, the cost of treatment including admissible journey expenses is admissible for reimbursement. Mr. Bhattacharjee, learned counsel also refers to another order dated 25.09.2004 (Annexure-8) issued by the Health and Family Welfare Department prior to issuance of said memorandum dated 09.08.2005 wherein at sub-clause (f) it is mentioned that Group-C and Group-D employees are not normally entitled to medical reimbursement facility but same may be available to them in cases of special dispensation only with the prior approval of the Finance Department, Government of Tripura. According to Mr. Bhattacharjee, learned counsel, said order if taken into consideration, in special circumstances, the cases of the spouses of the Government employees may be covered for such reimbursement. Anyway, already by said subsequent notification dated 09.08.2005, the entitlement of medical reimbursement of the spouse of a Group-C or Group-D employee was restricted to the treatment of cancer. Another notification, as referred by Mr. S. Bhattacharjee, learned counsel, appears to have been issued on 22.12.2022 (Annexure-9) by way of

supersession/partial modification of earlier all existing guidelines. In said notification similar clause like memorandum dated 09.08.2005 regarding medical reimbursement in respect of spouses of Group-C and Group-D was carried over with similar restriction confining such entitlement in case of treatment of spouse of such employee only in respect of disease cancer. Said provision is incorporated in clause (e) of the notification dated 28.12.2022.

[4] Mr. S. Bhattacharjee, learned counsel strenuously argues that in case of Group-A and Group-B category employees, no such restriction or classification or differentiation has been made but in case of spouse of Group-C and Group-D employees, entitlement to reimbursement has been restricted only to the treatment in respect of the disease cancer. According to Mr. Bhattacharjee, learned counsel, such decision of the Government is discriminatory and arbitrary.

[5] Mr. Kohinoor N. Bhattacharya, learned G.A., on the other hand, referring to a decision of Division Bench of this Court in case of ***The State of Tripura and others vs. Sentu Das (WA No.130 of 2023)*** decided on 24.09.2024 submits that similar issue was raised in said case and finally, the Court held as under:

“[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 uninfluenced 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."

[6] In that case also the above said clause (e) of the referred notification dated 22.12.2022 was under consideration and finally, the Court made the above said observations.

[7] Both the learned counsel, however, submits that in view of the observations made by the Division Bench in above said **Sentu Das (Supra)**, the present case may be disposed of in the similar line.

[8] Considered the submissions and the points raised by learned counsel of both sides and the documents placed on record.

[9] It appears to this Court that similar issue having been raised in above said **Sentu Das (Supra)**, the Division Bench has already passed order for reconsideration of said clause (e) of 2022 by the State Government.

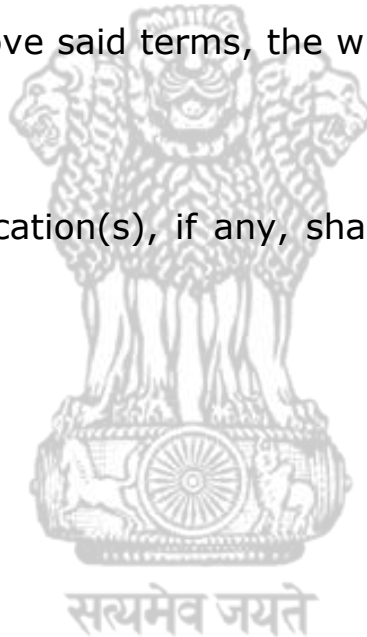
[10] Period of treatment of the wife of the petitioner was prior to the issuance of notification dated 22.12.2022 (Annexure-9) and the petitioner also submitted the medical reimbursement bill on 17.08.2022 (Annexure-4) i.e. prior to said notification dated 22.12.2022. However, similar clause, as discussed above, is also found available in the previous notification dated 09.08.2005 (Annexure-7). Therefore, in terms of the order of the Division Bench of this Court as indicated above, if any modification made by the State in respect of said clause as borne in notification dated 22.12.2022 and like Group-A and Group-B employees, the Group C employees are also provided the benefit of reimbursement in respect of other diseases, same will have bearing on the claim of the petitioner too. It appears that earlier also in the notification dated 25.09.2004 (Annexure-8), the said avenue was kept open for such medical reimbursement by way of special dispensation with the approval of the Finance Department. However, as it is submitted from the side of State respondents that the matter is now under active consideration of the State Government in view of the order passed by the Division Bench as discussed above, this Court at this stage, is not going to decide the petition of the petitioner on merit.

[11] In view of the above said facts, this writ petition is being disposed of with similar observations that the respondent State Government may revisit the policy of such medical reimbursement in cases of treatment of spouses of Group-C and Group-D employees in terms of the observations made by the Division Bench

of this Court in said **Sentu Das (Supra)** and after some decision is taken by the State in this regard, the respondents will take a fresh decision on above said bill of the petitioner for such medical reimbursement in terms of said decision of the State Government and will dispose of the matter within two months from the date of such decision taken by the State Government and till such process is completed, the rejection of the claim of petitioner earlier will remain in-operative.

In view of above said terms, the writ petition is disposed of.

Pending application(s), if any, shall also stand disposed of.



JUDGE

SATABDI DUTTA Digitally signed by
SATABDI DUTTA
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Rudradeep