

IN THE HIGH COURT OF TRIPURA
AGARTALA

W.P(C) No.22 of 2015

Dr. Subrata Kumar Pal,
son of late Dr. Ramesh Chandra Pal,
resident of Old Kalibari Lane, near
Magnet Club, Krishnanagar, P.S.
West Agartala, District – West
Tripura

..... **Petitioner**

- V e r s u s -

- 1. The State of Tripura,**
to be represented by the
Commissioner/Secretary, Department
of Health, Government of Tripura,
New Secretariat Complex, Kunjaban,
Agartala, West Tripura, PIN - 799006
- 2. The Director of Health Services,**
Government of Tripura, Pandit Nehru
Complex, Gurkhabasti, P.O.
Kunjaban, Agartala, West Tripura,
PIN - 799006
- 3. The Superintendent,**
I.G.M. Hospital, Agartala, P.O.
Agartala, P.S. West Agartala, District
– West Tripura, PIN-799001
- 4. The Secretary,**
Finance Department, Government of
Tripura, New Secretariat Complex,
Kunjaban, Agartala, West Tripura,
PIN - 799006

.....**Respondents**

B E F O R E
THE HON'BLE MR. JUSTICE S. TALAPATRA

For the petitioner : Mr. Samarjit Bhattacharji, Advocate
For the respondents : Mr. N. Majumder, Advocate
Date of hearing : 23.09.2015
Date of delivery of Judgment & Order : **23.11.2015**

Whether fit for reporting :

YES	NO
√	

JUDGMENT & ORDER

By means of this writ petition, the petitioner has challenged the action of the respondents of withholding medical reimbursement bills for an amount to the extent of Rs.16,24,525/- (Rupees Sixteen lacs Twenty Four thousand Twenty Five) on account of treatment of his wife, namely Smt. Panna Paul and another amount of Rs.5,302.58 for his own treatment as the referred patient outside the State. The petitioner has sought for further direction for sanction and release of the said amount with interest @9% per annum from the date of filing the bills for medical reimbursement.

[2] There is no dispute that the petitioner and his wife are entitled to get reimbursement of the medical bills in terms of the Central Services (Medical Attendance) Rules, 1944 as the petitioner was the Medical Officer, borne in the Grade-II of Tripura Health Services and he has retired on 30.04.2014. After removal of a tumour from the small intestine of his wife, the biopsy report came positive. The petitioner has in an emergent step taken to his wife to the Tata Memorial Hospital, Mumbai for further treatment. At the advice of the doctors in the said hospital, the wife of the petitioner had undergone octreotide scan. The Standing Medical Board of the Government of Tripura referred Smt. Panna Pal, the wife of the petitioner to CCWH, Thakurpukur, Kolkata for further investigation and treatment. As the facilities for investigation and treatment

were not available in the state and as the petitioner's wife was diagnosed suffering from carcinoid tumour of small intestine, on the referral dated 17.10.2007 the petitioner's wife attended in the said referral hospital. But the required Indium III Octreotide Scan for carcinoid tumour of small intestine was not available in the said hospital. Even the same facility was not available at the Regional Radiation Medicine Centre (VECC). The petitioner was compelled to take his ailing wife to the Tata Memorial Hospital, Mumbai. Even in that hospital, the said facility was not available. As a result, the petitioner took his wife for imaging at PD Hinduja National Hospital and Medical Research Centre, Mumbai where the said scan was carried out. The petitioner submitted the medical bills for such scan to the extent of Rs.80,050/- with all required documents to the Director, Health Services, Government of Tripura. Along with the said medical reimbursement bills (MR), the petitioner also submitted TA bills for Rs.33,220/- supported by necessary documents. The said TA bill was sanctioned and paid to the petitioner. But the MR bills that was submitted by the petitioner was returned for the reason that the referred patient was not treated by the referred hospital and as such, approval from the Finance Department has to be taken to ascertain whether the bills as submitted was in tune with the expenses that could have been incurred, had the referred patient been treated by CCWH, Thakurpukur. The Director of Health Services by the letter dated 08.04.2009 requested the Treasury Officer for payment of the MR

bills of the petitioner as there is no facility in the referred hospital for investigation and treatment. In view of the Govt. Order No.8 when a cancer patient is referred by the State Medical Board for treatment or investigation to CCWH, Thakurpukur but the treatment is actually availed at some other hospitals, in that event the rate fixed by the CCWH, Thakurpukur or the actual treatment/investigation expenses, whichever is lower, would be paid. Later on, the said amount was sanctioned and the payment was made to the petitioner. While the wife of the petitioner was staying at Pune with her son who was prosecuting studies there, she had to rush to the hospital on complaint of severe abdomen pain. The petitioner also rushed from Agartala for Pune. The expert of the Joshi Nursing Home, Pune advised the wife of the petitioner to take admission in the Tata Memorial Hospital, Mumbai for treatment of carcinoid tumour of small intestine. The petitioner took earned leave from 14.09.2009 to 13.10.2009. The wife of the petitioner was in a precarious situation and as such, it was not physically possible to bring her to Agartala for purpose of attending the State Medical Board for further reference. As an emergent measure, the petitioner's wife was admitted and operated in Lilabati Research Centre, Mumbai on 23.10.2009. It is the admitted position that such medicinal facilities were not available in the State of Tripura. For reimbursement of the said treatment expenses, during the period from 12.10.2009 to 16.11.2009, the petitioner submitted MR bills for Rs.3,22,078.82 with all necessary

documents. The petitioner also submitted 3(three) separate MR Bills for Rs.35,883/- for treatment at MMF Joshi Hospital, Pune and for Rs.32,275/- for treatment at the Tata Memorial Hospital, Mumbai along with the claim for Rs.1,050/- as the consultation fee of the Onco-Physician. Thus, the total claim of the petitioner came to Rs.3,91,286.82. But a sum of Rs.2,72,324/- was sanctioned, even though according to the petitioner, the remaining amount to the extent of Rs.1,18,962.82 was entitled to him. On 08.11.2010, the petitioner submitted another MR bill to the extent of Rs.2,92,722/- as the expenses incurred at Lilabati Research Centre, Mumbai. Again on 26.07.2010, the petitioner himself was referred to Christian Medical College, Vellore for further treatment. The petitioner raised the MR bills as the medical expense as incurred in the CMC, Vellore for Rs.20,786.58. But a sum of Rs.15,484/- was sanctioned and paid to the petitioner out of the claimed amount of Rs.20,786.58. The petitioner has submitted that the consultation charge has been sanctioned at Rs.60/- instead of Rs.410/- and the clinical biochemistry charge and registration fee had been sanctioned for Rs.1,950/- and 770/- instead of Rs.3,415/- and Rs.1,355/- respectively. Thus, the petitioner is entitled to get the remaining amount of Rs.5,302.58. While the petitioner's wife treatment was being carried on in Lilabati Hospital, Mumbai some investigations were done at Jaslok Hospital and Research Centre, Mumbai. On that account, the MR bills amounting to Rs.41,615.50 was submitted on 30.03.2012. But the said amount has not been

sanctioned. On 27.11.2010, the petitioner's wife having been critically ill was admitted in the Bangalore Institute of Oncology. The petitioner attended his wife on availing the earned leave, half pay leave and extra ordinary leave along with the declared holidays. As the MR bills were not been paid, the petitioner filed a representation on 02.01.2012. The said representation was duly forwarded by the Medical Superintendent, IGM Hospital but without any positive yield.

[3] On 14.03.2012, the petitioner's wife was referred by the State Medical Board to the Tata Memorial Hospital, Mumbai for necessary investigation and treatment. But the petitioner's wife had to undergo treatment at Lilabati Research Centre, Mumbai on 12.09.2012. Earlier Tata Memorial Hospital, Mumbai, according to the petitioner, had refused to treat the wife of the petitioner. As a result, the petitioner had to approach the Lilabati Research Centre, Mumbai. For the expenses as incurred during that period, the petitioner submitted a MR bill for an amount of Rs.8,17,257.50 on 26.12.2012. The petitioner had also submitted another MR bill on the same date for an amount of Rs.2,84,192/- which was spent for purchasing medicines. Those bills were duly forwarded for sanction to the Director of Health Services by the Medical Superintendent, IGM hospital on 02.01.2013. By a letter dated 15.07.2013, Annexure-P/20 to the writ petition, the Director of Health Services informed the Medical Superintendent, IGM hospital, Agartala that it

appeared from the bills that the wife of the petitioner was treated in the different hospitals. That created a little bit confusion in the department. As a result, the petitioner was asked to resubmit the bills raising the claim of hospitalwise and treatmentwise, separately countersigned by the hospital authority. On 01.10.2013, the petitioner resubmitted the MR bills for Rs.3,00,840/- and Rs.6,27,812/- to the Director of Health Services, Government of Tripura. Those bills were forwarded by the Medical Superintendent, IGM hospital on 05.10.2013. Those bills were not cleared. The petitioner submitted representations on 21.08.2014, Annexure-P/23 to the writ petition and 24.10.2014 to the Director of Health Services, Govt. of Tripura. On 05.06.2012, the Director of Health Services, Govt. of Tripura accorded sanction of Rs.2,72,324/- against the claim of Rs.6,84,008/- for treatment of his wife at Lilabati Research Centre, Mumbai. The said amount was sought to be received by the petitioner raising objection. But, till the day of filing the writ petition the said amount of Rs.2,72,324/- was not credited in his bank account as per the practice. Hence, he has filed this writ petition.

[4] The respondents by filing the counter affidavit have stated that the two bills amounting of Rs.2,92,722/- and Rs.20,786.58 were received by the Directorate of Health Services. Out of two bills, Rs.15,484/- was sanctioned against the claim of Rs.20,786.58 and the claim of Rs.2,92,722/- is lying with the office

of the Director of Health Services as the bill was not submitted within the period of limitation. Thus the said bill was returned on 11.05.2015. MR bills are supposed to be submitted within 3(three) months. The last day of treatment was 30.04.2010. Thus, the petitioner was under obligation to submit the bills within three months therefrom but he submitted the bills on 08.11.2010 after expiry of 6(six) months. Sub Rule 8 of Rule 11 of the Central Services (Medical Attendance) Rules, 1944 according to the respondents limits the time for filing the MR bills. But no such provision is available in the Rule 11, sub Rule 8 of the Central Services (Medical Attendance) Rules, 1944. The referred sub Rule provides as under:

“(8) The standing committee may, if it is satisfied that in the interest of the Govt. servant or the member of his family obtaining treatment abroad it is essential so to do, recommend one attendant to accompany the Government servant or the member of his family, as the case may be, and the expenditure so incurred shall also be eligible for reimbursement.”

The said provision has no manner of application in the context of the case in hand.

[5] As regards the amount of Rs.3,00,840/- and Rs.6,27,812/- those bills according to the respondents have been sanctioned by the Directorate of Health Services. But the Treasury returned the bills as those bills according to the Treasury was also not filed within time. The Directorate of Health Services had

referred the matter to the Finance Department for approval but the file has not returned. The respondents have also asserted as the reason of non-payment or truncated payment as under:

"There is no claim of M.R Bill amounting to Rs.6,84,008/- is received by the office of the Directorate of Health Services. So question of payment of that bill does not arise. It is mentioned here that the claim of the petitioner amounting to Rs.3,91,286.82 (Rs.3,22,078.82 + Rs.35,883/- + Rs.32,275/- + Rs.1,050/-), the authority after examination sanctioned Rs.2,72,324/-.

It is further submitted that the claim amount of Rs.6,27,812/- submitted on 01.10.2013 has been examined. After examination of the bill, it has come; a sum of Rs.2,92,842/- as admissible as per rates of TATA MEMORIAL HOSPITAL and the same was submitted on 24.12.2014 by the office of the Director of Health Services to the Finance Department for concurrence, but not yet returned.

In several occasion, the petitioner submitted his claim amulgating two bills in a same bills of different hospitals which were returned to the petitioner to submit the bill properly. It is to be mentioned here that, the wife of the petitioner treated in different hospitals of India without referring by the Standing Medical Board in several occasions and submitted bills for the same but no bill was returned without sanctioned stating that patient was not referred by the Medical Board. The authority has sympathetically considered and accorded sanctioned which are covered by the M.R. Rule.

On examination and scrutiny of M.R. Bill, the authority sanctioned Rs.2,72,324/- on 03.06.2012 to the petitioner as admissible as per C.G.H.S. rate for the treatment of the wife of the petitioner. Director of Health Services, Government of Tripura sanctioned on 06.11.2011 for the treatment of the petitioner amounting to Rs.15,484/-. Further, Director of Health Services, Government of Tripura sanctioned on 16.12.2014 amounting to Rs.3,00,840/- for the treatment at Lilabati Hospital & Tata Memorial Hospital, Mumbai and on 15.08.2015 amounting to Rs.2,92,842/- for the treatment at T.M. Hospital, Mumbai for

the treatment of the wife of the petitioner (Annexure-R/1 series)."

[6] They have further asserted in the Paras-15 & 16 of the counter affidavit as under:

"15.....The wife of the petitioner was referred by the Standing Medical Board on 17.10.2007 to Thakur Pukur, Kolkata but the petitioner treated his wife in Mumbai which is permissible and expenditure incurred is admissible as per rates of referral Hospital. The patient should be undertake treatment within 6th month from the date of refer dated 17.10.2007. In the instant case, the wife of the petitioner was treated in the month of 2009 i.e. after 2(two) years from the date of refer without further refer by the Standing Medical Board. After completion of treatment, the petitioner submitted MR claim of Rs.3,22,078/- to the authority for sanctioning his claim. On examination and scrutiny of MR Bill, the authority sanctioned Rs.2,72,324/- on 03.06.2012 to the petitioner as admissible as per C.G.H.S rate besides, the treatment done in Mumbai (Lilabati & Tata Memorial Hospital) are not available in the referral Hospital.

The expenditures approved as per C.G.H.S. rates instead of referral Hospital which was as per Rules. So, it is denied that the petitioner's is entitling the remaining amount at Rs.1,18,962.82. The rules are applicable to all and all are equal in the eye of law. The petitioner's claim is not exceptional his claim has been settled according to rules.

16. That, the statements made in Paragraph-17 of the writ petition the answering respondents state that, the MR claim of Rs.2,92,722/- was received by the respondents. On examination, it reveals that, the petitioner submitted his claim to the authority on 08.11.2010 whereas the treatment duration was w.e.f. 23.01.2010 to 30.04.2010 i.e. bill for an amount of Rs.2,92,722/- was submitted by the petitioner after 7 months which is not admissible as per sub Rule 8 of Rule 11 of Central Services (Medical Attendance) Rules, 1944. On being examination of the medical claim of the said amount were not granted as it is not come/cover as per Central Services (Medical Attendance) Rules, 1944 and hence

returned on 11.05.2015 (vide Annexure-R/3). So, the statement made by the petitioner is denied by the respondents."

[7] They have stated in their Para-18 of their counter affidavit as under to assign why they have paid a reduced amount against the MR bills amounting to Rs.20,786.58:

"18. on being refer by the Standing Medical board, the wife of the petitioner was under taken treatment in Vellore and thereafter the petitioner submitted his medical claim amounting to Rs.20,786.58 to the Directorate of Health Services. On examination of the said bill/claims, the authority has sanctioned an amount of Rs.15,484/-. The sanction order dated 06.11.2011 as admissible amounts as per rate of referral Hospital. In this light, it is also stated that the petitioner has no dues on the said claim as the amount sanctioned which is admissible and according to the rate of referral Hospital. The sanction order dated 06.11.2011 (Annexure-R/1 series) as admissible amounts as per rate of referral Hospital. In this light it is also stated that the petitioner has no dues on the said claim as the amount sanctioned which is admissible according to the rate of referral Hospital."

But the respondents have categorically denied to have received the MR bills amounting to Rs.6,84,008/-. Therefore, there is no question of withholding that bill as alleged.

[8] The claim of the petitioner for a sum of Rs.3,91,286.82 was truncated to Rs.2,72,324/- as detailed in the Para-16 of the writ petition. Thus the statement of the petitioner against the MR claim of Rs.6,84,008/- that the respondents sanctioned Rs.2,72,324/- *ex-facie* is not correct. The respondents have further

stated that similarly the MR claim of Rs.6,27,812/- submitted on 01.10.2013 has been examined and after examination, a sum of Rs.2,92,842/- was paid as admissible as per rates of Tata Memorial hospital, the referral hospital. After such decision, the matter has been referred to the Finance Department for concurrence but such concurrence is not yet received.

[9] Mr. N. Majumder, learned counsel appearing for the respondents has submitted a chart, reflective of the averments made in the said counter affidavit, which gives a clear projection as to the MR claims and the outcome after consideration. The said chart has been set out hereinafter for purpose of reference:

Sl. No.	Date of submission of bill(s)	Amount Claim(s)	Date of Treatment	Name of Hospital
1	24.02.2010	Rs.35,883/-	09.09.2009 to 13.09.2009	MMF Joshi Hospital, Pune
2	26.12.2012	Rs.2,84,192/-	23.10.2009 to 30.04.2010	Lilabati Hospital, Mumbai
3	24.02.2010	Rs.32,275/-	23.09.2009 to 10.07.2009	Tata Memorial Hospital, Mumbai
4	24.02.2010	Rs.1,050/-	08.09.2010 to 17.11.2009	Sushrut Hospital, Mumbai
5	08.11.2010	Rs.2,92,722/-	23.01.2010 to 30.04.2010	P.D. Hinduja National Hospital, Mumbai

Except the MR bill amounting to Rs.6,84,008/-, the respondents have not raised any objection as to the submission of

the other MR bill. According to the respondents, the said bill was never submitted or received by the Directorate of Health Services.

[10] In the rejoinder, the petitioner has denied the said averment but did not produce any document that such bill was submitted for reimbursement. Situated thus, no consideration of the said MR bills amounting to Rs.6,84,008/- can be made by this Court in its jurisdiction under Article 226 of the Constitution of India. In the rejoinder, except making blunt assertion that the petitioner is entitled to that amount no averment has been made to dispel the reason as provided by the respondents. Even the petitioner did not question the analogy that the medical expenses incurred by the petitioner for treatment of his wife or for himself are to be limited to the extent of the expenses that would have been incurred in the referred hospital if the petitioner's wife was treated in the referred hospital.

[11] Mr. Samarjit Bhattacharji, learned counsel appearing for the petitioner has emphatically submitted that the claimed amount has been unreasonably truncated and sanction was limited to the said truncated amount. Even the said sanctioned amounts as appearing in the serial Nos.07,08,09 & 12 of the chart filed by the respondents have not been paid to the petitioner. This speaks volume how the administration functions.

[12] From the other side, Mr. N. Majumder, learned counsel while building his submission in tune with the averments made in the counter affidavit has added that another bill amounting to Rs.41,615.50 submitted on 30.03.2012 was also not received by the respondents. He has submitted that admittedly the petitioner has received some amounts out of the sanctioned amount of Rs.5,60,132/-. The whole claim as raised by the petitioner is not permissible under the Central Services (Medical Attendance) Rules, 1944 read with the policy as available in the Government Order No.8. The sanction has been made in terms of the said rules and the Government policy. The petitioner cannot claim the entire amount which he has incurred for treatment of his wife.

[13] Having appreciated the submissions made by the learned counsel and the records, this Court is of the view that the petitioner is not entitled to get the entire amount which he had incurred for medical treatment for his wife and for himself. He is only entitled to get the amount in terms of the Government Order No.8 as admittedly the treatment of the petitioner and his wife as availed was not available in the state. The payment would be restricted to the amount which would have been accounted for, if the treatment was availed in the referred hospital. But it is not intelligible why the bill amounting to Rs.20,786.58 has been truncated to Rs.15,484/- by the sanction order dated 16.11.2011 inasmuch as the petitioner had availed the treatment in the

referred hospital, CMC, Vellore and the said bill was raised on the actual expenditure incurred for such treatment in the said medical college hospital. Hence, this Court is of the view that the respondents acted unreasonably by truncating the bills amounting to Rs.20,786.58 and hence, the respondents are directed to pay the remainder amount of Rs.5,302.58. As in the rejoinder the petitioner is entirely silent as to the determination of the other bills as referred in the counter affidavit and in the chart in terms of the Govt. Order No.8, this Court is unable to interfere with such determination in absence of any alternative reason or additional fact. Blunt assertion is of no value. As such, those bills which were sanctioned but payments were not made as yet or pending for decision of the Finance Department, those bills shall be invariably paid to the petitioner within a period of three months from the date when the petitioner shall file a certified copy of this order to the Secretary to the Finance Department, Govt. of Tripura, the respondent No.4 herein and to the Secretary to the Government of Tripura, Health & Family Welfare Department and the Director of Health Services, the respondent No.2. As regards the time barred bills, it is observed that limitation as imposed that the MR bills shall be submitted within 3(three) months has been introduced by the O.M. No.F.29-40/68-M.A dated 15.10.1968 as amended on 28.12.1970. By another OM No.S.14023(1)/B/74-MC dated 21.08.1974 it has been observed that the time limit of three months from the presentation of medical claim should be strictly

adhered to and a reimbursement claim which is not supported by a regular voucher/cash memo should not be allowed. Later on, by the O.M No. S.14025/22/78-MS dated 13.08.1981, the following has been observed, as quoted in Swamy's Compilation of Medical Attendance Rules, as under:

(9) Heads of Departments delegated powers to condone delay in submission of claims: (a) General – As per existing instructions, all cases where the claims are submitted after three months have to be referred to the Ministry of Health for relaxation and condonation of delay. It has since been decided that delay beyond three months in submissions of the medical claims may be condoned by the Ministries/Departments of the Central Government/Comptroller and Auditor-General of India, etc. subject to the following :

(i) Each individual case seeking condonation of delay in submission of medical claims will be considered by the controlling authorities/administrative authorities on merit particularly keeping in view the need to prevent malpractices. After giving reasonable opportunity to the Government employee, the controlling authorities will be free to reject the medical claims when they are not convinced of the reasons for delay involved in the submission of the claims.

(ii) It will be open to the Controlling/Administrative Ministers/the Comptroller and Auditor-General of India to lay down monetary limits of the medical claims and the period up to which delay can be condoned at various levels, it being ensured that no case relating to condonation of delay is agreed to at a level lower than the Head of a Department.

(iii) The treatment has been obtained from authorized medical attendant/recognized hospital/dispensary/clinic etc. under the CS (MA) Rules, 1944 and orders."

It is to be noted that all the office memoranda as referred above are issued by the Ministry of Health, Govt. of India. As such, the Secretary, Department of Health and Family Welfare is directed to consider whether the delay in submission of the MR bills can be condoned. While considering condoning of delay a liberal and lenient approach shall be adopted having regard to the attending circumstances as illustrated in the writ petition. For this purpose, the petitioner is also permitted to file any representation assigning the causes for which he was prevented in filing the MR bills within the prescribed time limit. Such exercise shall invariably be completed within a period of three months from today. If the petitioner is inclined to file such representation in this regard, he shall file such representation within seven days from today to the Secretary to the Govt. of Tripura, Department of Health & Family Welfare.

With this observation and directions, this writ petition is allowed to the extent as indicated above.

There shall be no order as to costs.

JUDGE

Sujay