

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

TUESDAY, THE 7TH DAY OF APRIL 2015/17TH CHAITHRA, 1937

WP(C).No. 880 of 2014 (H)

PETITIONER(S):

**ANIYAN.P. JOHN, AGED 40 YEARS,
S/O.P.V.ULAHANNAN, RESIDING AT PALAKUNNEL,
SOUTH MAZHUVANNUR, HEADMASTER, S.R.V.U. P.SCHOOL,
MAZHUVANNOOR, KOLENCHERRY SUB DISTRICT,
ERNAKULAM DISTRICT.**

**BY ADVS.SRI.P.SANJAY
SMT.A.PARVATHI MENON**

RESPONDENT(S):

- 1. STATE OF KERALA,
REPRESENTED BY SECRETARY TO GOVERNMENT,
DEPARTMENT OF EDUCATION, GOVERNMENT OF KERALA,
TRIVANDRUM.**
- 2. SECRETARY TO GOVERNMENT,
DEPARTMENT OF HEALTH, GOVERNMENT OF KERALA,
TRIVANDRUM.**
- 3. DIRECTOR OF HEALTH SERVICES, TRIVANDRUM.**
- 4. ADDITIONAL DIRECTOR OF HEALTH SERVICES, TRIVANDRUM.**
- 5. DIRECTOR OF PUBLIC INSTRUCTION, TRIVANDRUM.**
- 6. DEPUTY DIRECTOR OF EDUCATION, ERNAKULAM.**
- 7. ASSISTANT EDUCATION OFFICER, KOLENCHERRY.**

BY SENIOR GOVERNMENT PLEADER SMT.SUNITHA VINOD

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 07-04-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

PJ

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P1 TRUE COPY OF THE SANCTION ORDER NO.L.DIS.MH2-87915/12/DHS
DATED 28.11.2012.**
- EXT.P2 TRUE COPY OF THE APPLICATION FOR REIMBURSEMENT DATED
22.5.2013 MADE BY THE PETITIONER ALONG WITH NECESSARY
DOCUMENTS LIKE ESSENTIALITY CERTIFICATE.**
- EXT.P3 TRUE COPY OF THE SAID ORDER H5/80704/2013/DHS DATED 8-11-2013.**
- EXT.P4 TRUE COPY OF THE REPRESENTATION DATED NIL.**
- EXT.P5 TRUE COPY OF HE REPLY DATED 13/1/14 ISSUED BY THE R3**

RESPONDENT(S)' EXHIBITS

- EXT.R3(A) TRUE COPY OF GO(P)NO.12/86/H&FWD DATED 23/9/86**
- EXT.R3(B) TRUE COPY OF GO(MS)NO.378/2012/H&FWD DATED 7/11/12**
- EXT.R3(C) TRUE COPY OF GO(MS)NO.352/2013/H&FWD DATED 7/8/13**
- EXT.R3(D) PHOTOCOPY OF THE REPLY DATED 13/1/14**

/ TRUE COPY /

P.S. TO JUDGE

PJ

A.MUHAMED MUSTAQUE, J.

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**W.P.(C).No.880/2014**  
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Dated this the 7th day of April, 2015

J U D G M E N T

The petitioner obtained permission to treat his mother, Mrs.Sosamma at CMC, Vellore for cancer treatment. Permission was granted as per Ext.P1 proceedings of the Additional Director of Health Services (Medical), Thiruvananthapuram. In this writ petition, the only issue pertains to the reimbursement of the medical expenditure incurred by the petitioner. This amount is covered as per Ext.P2. Ext.P2 is a composite bill towards hospital charges which includes medicine, laboratory charges and other medical charges. By Ext.P3, the request was rejected stating that the petitioner has to resubmit the proposal as the petitioner has to make separate claim for each proposal. It is also stated therein that the essentiality certificate requires doctor's signature.

2. In the counter affidavit it is stated that in terms of Rule 9(3) of the Kerala Government Servants' Medical Attendance

Rules, 1960 (for short, the "Rules") for reimbursement of cost of medicines purchased, the vouchers require counter signature by the Authorised Medical Attendant and Essentiality Certificate shall be certified by the Medical Officer prescribing the medicines concerned and counter signed by the Authorised Medical Attendant. Petitioner submits that Ext.P2 Essentiality Certificate has been signed by the doctor concerned and also has been counter signed by the Superintendent of the Hospital. It is the case of the petitioner that Rule 7A of the Rules alone applies as the reimbursement of expenditure was in relation to the special treatment outside the State based on Ext.P1.

3. It is apposite to refer Rule 7(a) of the Rules which reads as follows:

"7A. Reimbursement of expenditure incurred for "Special Treatment" outside the State.- The expenditure incurred by a patient entitled to free medical attendance under these rules for any special treatment obtained by him/her outside the State but within India will be reimbursed subject to the condition that the Director of Health Services Certifies.-

(i) that there were no facilities in the State for such special treatment,

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(ii) that the nature of the disease warranted the special treatment outside the State but within India by the Specialist concerned, and

(iii) the charges claimed are reasonable.

Note 1:- Such treatment outside the State but within India shall be taken only with the prior sanction of the Director of Health Services on the recommendation of the Authorised Medical Attendant. The Director of Health Services while sanctioning such treatment shall specify the Institution in which the treatment is to be undergone.

[G.O.(P).263/61/HLD.dated 6th March, 1961]

Note 2:- Claims in respect of the under mentioned charges alone will be accepted for reimbursement of the extent indicated.

1. Treatment charges (in full)
2. Bed Charges (50 per cent only)
3. Physicians/Surgeons fee (in full)
4. Lab charges including X-ray, BCG etc. (in full)
5. Blood Bank charges (in full)

[Notification No.80947/G2/76/HD, dated 9th March, 1977]"

Note (2) to Rule 7A of the Rules clearly states that the reimbursement in respect of treatment charges is in 'full'. If that be so, the only issue now is regarding verification of such

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proposal by the authority concerned. Ext.P2 bears counter signature of the Medical Officer concerned.

4. In that view of the matter, I am of the view that treating that the matter is coming under Rule 7A, the entire claim made by the petitioner as per Ext.P2 shall be released to the petitioner, at any rate, within a period of two months from the date of receipt of a copy of this judgment.

The writ petition is disposed of as above. No costs.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE

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