

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ANIL K. NARENDRA

MONDAY, THE 13TH DAY OF JULY 2015/22ND ASHADHA, 1937

WP(C).No. 22428 of 2005 (T)

PETITIONER:

1. K. VASUDEVAN, PEON,
ASSISTANT DEVASWOM COMMISSIONER OFFICE, THIRUVALLA
TRAVANCORE DEVASWOM BOARD.
2. M. GOPALAKRISHNA KURUP, 1ST MAHOUT,
SIVASANKARA KUNNAMTHANAM DEVASWOM, ARANMULA GROUP.

BY ADV. SRI. P. BABUKUMAR

RESPONDENT(S):

1. TRAVANCORE DEVASWOM BOARD
REPRESENTED BY ITS SECRETARY, DEVASWOM BOARD BUILDING
NANDANCODE, THIRUVANANTHAPURAM.
2. THE COMMISSIONER, TRAVANCORE DEVASWOM BOARD,
NANDANCODE, THIRUVANANTHAPURAM.

BY ADV. SMT. A. SREEKALA, SC, TRAVANCORE DEVASWOM BOARD
BY ADV. SRI. C. VIJAYAN, SC, TDB
BY ADV. SRI. P. VIJAYARAGHAVAN, SC, TDB
BY ADV. SRI. M. K. CHANDRAMOHAN DAS, SC, TDB
BY ADV. SRI. NAGARAJ NARAYANAN, SC, TDB
SRI. P. G. PARAMESWARA PANICKER, SC, TDB

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 13-07-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX IN WPC.22428/05

PETITIONER'S EXTS:

- EXT.P1: COPY OF CERTIFICATE ISSUED FROM PUSHPAGIRI MEDICAL COLLEGE HOSPITAL DT.7.6.05.
- EXT.P2: COPY OF REPRESENTATION SUBMITTED BY 1ST PETITIONER TO THE 1ST RESPONDENT DT.9.5.05.
- EXT.P3: COPY OF MEDICAL BILL ISSUED BY THE PUSHPAGIRI MEDICAL COLLEGE HOSPITAL, THIRUVALLA TO THE 2ND PETITIONER DT.NIL.
- EXT.P4: COPY OF MEDICAL BILL ISSUED BY THE PUSHPAGIRI MEDICAL COLLEGE HOSPITAL, THIRUVALLA TO THE 2ND PETITIONER DT.NIL.
- EXT.P5: COPY OF ORDER ISSUED BY THE 1ST RESPONDENT DT.16.5.05.

RESPONDENTS' EXTS:

- ANNEXURE R1-A: COPY OF REQUISITION DT.8.12.04 SUBMITTED BY THE 1ST PETITIONER.
- ANNEXURE R1-B: COPY OF ORDER DT.31.1.05 ISSUED BY THE 1ST RESPONDENT.
- ANNEXURE R1-C: COPY OF PROCEEDINGS OF THE TRAVANCORE DEVASWOM BOARD DT.2.5.05.
- ANNEXURE R1-D: COPYOF PROCEEDINGS OF THE TRAVANCORE DEVASWOM BOARD DT.23.7.97.
- ANNEXURE R1-E: COPY OF CIRCULAR NO.ROC 3638/97/EST.III DT.21.8.1998 ISSUED BY THE 1ST RESPONDENT.

TRUE COPY

P.S.TO JUDGE

dsn

ANIL K.NARENDRA, J

W.P.(C)No.22428 Of 2005

DATED THIS THE 13th DAY OF JULY, 2015

JUDGMENT

The petitioners who are employees of Travancore Devaswom Board have filed this Writ Petition seeking a writ of mandamus commanding the respondents to grant medical reimbursement to them as per the bills already submitted. They have also sought a declaration that, the medical bills issued from Pushpagiri Medical College Hospital, Thiruvalla can be reimbursed since it is an institution approved by the Government.

2. Going by the averments in the Writ Petition, the 1st petitioner, who is a Class IV employee of the Travancore Devaswom Board, after undergoing treatment at Pushpagiri Medical College Hospital submitted medical bills to the tune of ₹38,472.42 for the purpose of medical reimbursement. Ext.P1 is a certificate dated 7.6.2007 issued by Pushpagiri Medical College Hospital, Thiruvalla, certifying that the said institution has been approved for medical treatment reimbursement of Government employees as per letter No.M5/100918/91/DHS of the Government of Kerala, Health Services, under Rule 8(3) of Kerala Government Servants Medical

Attendance Rules, 1960, applicable to State Government Employees. But, the medical bills submitted by the 1st petitioner were not sanctioned for reimbursement and in such circumstances, he has submitted Ext.P2 representation before the 1st respondent. Similarly, the 2nd petitioner who is also a Class IV employee of the Travancore Devaswom Board had undergone treatment at Pushpagiri Medical College Hospital. He has also made a claim for reimbursement of medical expenses, to the tune of ₹28,000/-, covered by Exts.P3 and P4 bills. But the claim made by the 2nd petitioner was rejected by the 2nd respondent by Ext.P5 communication, stating that, the claim made by him cannot be entertained as per the Rules Relating to Medical Reimbursement. It is aggrieved by the same, the petitioners have moved this Court in this Writ Petition seeking various reliefs.

3. A counter affidavit has been filed on behalf of the 1st respondent, contending that, after undergoing treatment at Regional Cancer Centre at Thiruvananthapuram, the 1st petitioner submitted Annexure R1-A request dated 8.12.2014. Considering the said request, the respondent Board has sanctioned a sum of ₹50,000/- to him on 31.1.2005 for undergoing treatment at the

Regional Cancer Centre, Thiruvananthapuram. The said sanction was made on a specific condition that he will produce the medical bills regarding his treatment to prove the expenses incurred. Annexure R1-B is the order issued by the 2nd respondent sanctioning a sum of ₹50,000/- to the 1st petitioner for undergoing treatment at the Regional Cancer Centre, Thiruvananthapuram. However, after availing the said advance, the 1st petitioner produced the medical bills worth ₹14,435 for reimbursement. The Board as per Annexure R1-C proceedings dated 2.5.2005 sanctioned the said sum and requested the 1st petitioner to remit the balance amount of ₹35,547/-.

4. Relying on Rule 7(1) of the Travancore Devaswom Board Employees Reimbursement Rules, 1997 produced as Annexure R1-D, the respondents would contend that, the Board is not responsible for any expenditure incurred by an employee for medical treatment by admitting himself into a non-Government institution. Rule 7(2) makes it clear that a Devaswom employee who has no Government Medical Institution within a radius of 8 KMs of their station may resort to a Private Medical Institution recognised by the State Government as an institution under Rule

8(3) of the Kerala Government Servants Medical Attendance Rules, 1960. But, an employee can resort to such an institution only in cases of emergency and not as a routine course. However, the bills for reimbursement should be certified by an authorised Medical Attendant as to the emergency of each case and that the reimbursement of the expenses for treatment will be made at the rates approved by the Government for such treatment. Therefore, according to the respondents, since the claim made by the petitioners is not in terms of the relevant Medical Reimbursement Rules, the same cannot be granted.

5. The only issue that arises for consideration in this Writ Petition is as to whether the respondents were justified in declining medical reimbursement to the petitioners on the ground that they have undergone medical treatment in hospitals other than Government hospitals.

6. The entitlement of an employee for medical reimbursement depends upon the Statute/Scheme governing the field framed/formulated by the employer for reimbursement of medical expenses. Here, the petitioners who are employees of the Travancore Devaswom Board are governed by the Travancore

Devaswom Board Employees Reimbursement Rules, 1997. Rule 7 (1) of the aforesaid Rules makes it explicitly clear that the Board will not be responsible for any expenditure incurred by an employee for medical treatment by admitting himself in a non-Government institution. Further, Rule 7(2) of the Rules makes it clear that, a Devaswom Board employee who has no medical institution within a radius of 8 KMs of their station may resort to private medical institutions recognised by the State Government as envisaged under Rule 8(3) of the Kerala Government Servants Medical Attendance Rules, 1960. But the said Rule categorically provides that, such institutions can be resorted to only in cases of emergency and in such cases an authorised Medical Officer should certify in the medical bill submitted for reimbursement that, it is a case of emergency.

7. In the case on hand, admittedly there is total dearth of materials to come to a conclusion that the treatment undergone by the petitioners would come within the purview of Rule 7(2) of the Medical Reimbursement Rules applicable to employees of the Travancore Devaswom Board. Even in the Writ petition, the petitioners have no case that, it was a case falling under Rule 7

(2) of the said Rules. If that be so, the respondents are perfectly justified in not sanctioning the medical reimbursement sought for by the petitioners on the ground that they have undergone treatment at Pushpagiri Medical College Hospital.

8. When the Medical Reimbursement Rules applicable to the employees of the Travancore Devaswom Board specifically provides that, an employee can avail treatment facility in an institution other than a Government institution only in the circumstances enumerated in Rule 7(2) of the Rules, no employee has got any right to insist that the claim for medical reimbursement after undergoing treatment in a private hospital should be accepted by the Board. Merely for the reason that, by Ext.P1 certificate, the Institution in which the petitioner had undergone treatment is recognised by the Government, it will not come within the purview of a Medical Institution under the Government of Kerala as defined under Rule 5 of the Medical Reimbursement Rules. Rule 5 categorically provides that, treatment shall be made in an Institution under Government of Kerala. On the other hand, Rule 7 deals with special concession, when the employees have no Government Medical Institution

within a radius of 8 KMs in cases of emergency.

9. In such circumstances, the stand taken by the respondents that the petitioners are not entitled for reimbursement of the medical expenses incurred by them while undergoing treatment at Pushpagiri Medical College Hospital, Thiruvalla cannot be termed as arbitrary or illegal, warranting an interference by this Court, under Article 226 of the Constitution of India.

In the result, the Writ Petition fails and the same is dismissed. No order as to costs.

Sd/-
ANIL K.NARENDRA,
JUDGE

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