

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

THURSDAY, THE 29TH DAY OF OCTOBER 2015/7TH KARTHIKA, 1937

WP(C).No. 19344 of 2009 (K)

PETITIONER(S):

**P.A.PRABHAVATHY, W/O.BABU.K.V., AGED 50 YEARS,
CHIEF JUDICIAL MAGISGTRATE, THODUPUZZHA.**

**BY ADVS.SRI.S.SREEKUMAR
SRI.P.MARTIN JOSE
SRI.P.PRIJITH
SRI.S.VAIDYANATHAN**

RESPONDENT(S):

- 1. STATE OF KERALA REP. BY ITS SECRETARY,
HOME(C) DEPARTMENT, GOVERNMENT SECRETARIAT,
TRIVANDRUM.**
- 2. THE DIRECTOR OF HEALTH SERVICES,
THIRUVANANTHAPURAM.**
- 3. THE DISTRICT MEDICAL OFFICER (HEALTH),
ERNAKULAM.**

BY SENIOR GOVERNMENT PLEADER SRI.K.K.SAIDALAVI

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 29-10-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

PJ

APPENDIX

PETITIONER(S)' EXHIBITS

- P1: TRUE COPY OF THE APPLICATION FOR CLAIMING REIMBURSEMENT OF MEDICAL EXPENSES**
- P2: TRUE COPY OF CASE SUMMARY AND DISCHARGE CARD ISSUED FROM SREE CHITRA TIRUNAL INSTITUTE FOR MEDICAL SCIENCES & TECHNOLOGY, THIRUVANANTHAPURAM.**
- P3: COPY OF THE APPLICATION FOR CLAIMING REIMBURSEMENT OF MEDICAL EXPENSES**
- P4: TRUE COPY OF G.O.(MSS)134/2007/HOME DATED 12/6/2007 IN COMPLIANCE WITH THE ORDER IN WPC.1022/88 OF HONOURABLE SUPREME COURT**
- P5: COPY OF ORDER G.O.(RT)3334/08(HOME) DATED 29/10/08**
- P6: COPY OF LETTER NO.MH6/96030/08/DHS DATED NIL**
- P7: COPY OF LETTER NO.C3(L.DIS)17665/08 DATED**
- P8: COPY OF G.O.(RT)NO.1528/2008/HOME DATED 15/5/08 ISSUED BY R1.**

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY

P.S. TO JUDGE

PJ

A.V. RAMAKRISHNA PILLAI, J.

W.P.(C) No. 19344 of 2009

Dated this the 29th day of October, 2015

J U D G M E N T

The petitioner is the member of the Kerala Judicial Service. While she was working as Chief Judicial Magistrate, Thodupuzha, her husband had Coronary Artery Disease, Tripple Vessel Disease and Dyslipidaemia, consequent to which, he was admitted to the Medical Trust Hospital, Ernakulam and later, to the Sree Chithra Tirunal Institute of Medical Science and Technology, Thiruvananthapuram. The petitioner alleges that she had incurred a total sum of ₹56,610.90/- towards treatment of her husband. Her grievance is that though she submitted Exts.P1 and P3 applications claiming reimbursement of medical expenses, the respondents rejected full claim without any rhyme or reason and sanctioned only a sum of ₹33,064/-. According to her, she is entitled to full reimbursement of the amount of ₹56,610.90/-

claimed by virtue of Exts.P4 & P8. Hence, this writ petition.

2. In the counter affidavit, it is contended as follows;

The medical reimbursement application of the petitioner for an amount of ₹41,330/- has been received in the office on 18.12.2008. The same had been verified and returned to the petitioner. The medical reimbursement application of the petitioner claiming expense of ₹15,280/- incurred for the treatment in Sree Chitra Hospital, Thiruvananthapuram has been verified by the District Medical Officer (Health), Ernakulam vide letter No.C3-17665/08 dated 25.10.2008.

As per KGSMA Rules, 1960, charges incurred for medical expenses to the government employees are reimbursable subject to conditions specified in the Rules. As per GO (Ms) 134/2007/Home dated 12.06.2007, Judicial Officers and family members are entitled to full reimbursement of actual medical expenses. On the basis of the above Government Order, respondents 2 & 3 had gone through the process, which is vest in as a procedure to verify the medical claim of the petitioner. According to

..3..

the 2nd respondent, the petitioner's contention regarding clause 7 of the above Government Order has also not been violated by respondents 2 & 3.

It is pointed out that GO (Rt) 3334/08/Home dated 29.10.2008 has accorded sanction for reimbursement of 80% of admissible amount to the petitioner by verification through the Directorate of Health Services at Government rate out of the claimed amount of ₹41,330/-. Abiding the GO (Rt) 3334/08/Home dated 29.10.2008, only verification has been done by the respondents as per procedure to reimburse the medical claim of the petitioner; it is contended.

As per letter No.C3-15123/09/DMO(H), Ernakulam dated 12.08.2009, normal verification process has been done in the medical claim of the petitioner and an amount of ₹6,204/- is admissible to the petitioner. According to them, Ext.P7 produced by the petitioner was not available at the time of scrutiny to the medical claim of the petitioner and hence, the 3rd respondent has only verified the claim and forwarded to the sanctioning authority at the earliest.

According to the 2nd respondent, they have not

..4..

violated the provisions in Ext.P8 GO and they have only followed the duty vested with them to reimburse the medical claim of the petitioner. Ext.P7 was issued only on the basis of the verification conducted as per KGSMA Rules and they have not violated any other GO then available with them.

It is further contended that the petitioner's medical claim is not rejected by respondents 2 & 3. In view of the GO (Rt) 3334/08/Home dated 29.10.2008, the medical claim of the petitioner was only verified by the respondents. The vested duty as per official procedure in reimbursing the medical claim of the petitioner has been done by the respondents. According to them, they have not imposed any restriction in the reimbursement amount. In view of GO (Ms) 134/2007/Home dated 12.06.2007, the Principal District Judge is the competent authority for passing the bills of reimbursement of Judicial Officers under him.

3. I have heard the learned senior counsel for the petitioner and the learned Government Pleader in the matter.

4. Ext.P4 notification was issued by the

Government pursuant to the direction of the apex court in **All India Judges Association v. Union of India & Others** [1992 (1) SCC 119]. As per Clause 4 of Ext.P4, there should not be any ceiling on reimbursement of expenditure and full reimbursement of actual expenses should be allowed. By Ext.P8, the 1st respondent clarified that a Judicial Officer of his/her family members is entitled to rates for treatment undertaken in hospitals other than at the notified ones at the rates approved by the Government and the rates prevailing in the notified hospitals should be reimbursed. The petitioner submitted requisite applications with essential certificates supported by all bills and vouchers in proof of expenditure. No satisfactory explanation is forthcoming in the counter affidavit as to why 20% of the medical claim has been disallowed. Therefore, this Court is of the view that the petitioner is entitled to succeed.

In the result, the writ petition is disposed of directing the respondents to reimburse the full medical

..6..

expenses claimed by the petitioner as per Exts.P1 & P3 together with interest @ 12% per annum from the date, on which, the same ought to have been paid, within a period of one month from the date of receipt of a copy of this judgment.

Sd/-
A.V. RAMAKRISHNA PILLAI
JUDGE

bka/-