

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.10.2015

CORAM:

THE HON'BLE MR.JUSTICE M.JAICHANDREN

Writ Petition No.15488 of 2012

1. M.Kannaian [deceased] .. Petitioner

2. Lalitha Kannaian,
[Legal representative of the
deceased sole petitioner
vide order dated 16.10.2015, in MP 1/2015]

vs.

1.The Chief Executive Officer,
Tamil Nadu Khadi & V.I. Board,
Chennai.

2.The Govt. of Tamilnadu,
Handloom, Handicraft,
Textile and Khadi Dept.,
Secretariat, Chennai.

... Respondents

Prayer: Petition is filed under Article 226 of the Constitution of India praying to issue a writ of mandamus, directing the 1st respondent to extend financial assistance to the petitioner under the Tamilnadu Government Pensioners Health Fund Scheme, 1995, as claimed by the petitioner through representation, dated 27.4.2006, to allow from time to time, in the light of this Honourable Courts order, in W.P. No.6110 of 2005 and W.P. No.7644 of 2005.

For petitioner : Mr.C.Saravanan

For respondents : Mr.S.K.Bose for R1
Mr.R.Ravichandran, AGP for R2

O R D E R

Heard the learned counsels appearing on behalf of the parties concerned.

2. This Writ Petition has been filed praying that this Court may be pleased to issue a Writ of Mandamus, directing the 1st respondent to extend financial assistance to the petitioner, under the Tamil Nadu Government Pensioners Health Fund Scheme', 1995, based on his representation, dated 27.4.2006.

3. According to the deceased 1st petitioner [hereinafter referred to as the 'petitioner'], he had joined the services of the 1st respondent, on 1.7.1964, as a Junior Assistant and after nearly 34 years of his service, he had retired, as a Regional Deputy Director, on 28.2.1998. The case of the petitioner is that, according to the Tamil Nadu Government Pensioners Health Fund Scheme', 1995, he is entitled to avail medical benefits, to the tune of Rs.50,000/- or 75% of the expenditure spent, whichever is less, if such a treatment had been availed by the beneficiary from an accredited hospital. It has been stated that the petitioner had been admitted in A.G. Hospital, Tambaram, on account of a heart ailment and later he underwent an angioplasty treatment from Dr.Kamakshi Memorial Hospital, Pallikaranai, Chennai. According to the petitioner, he had incurred a total expenditure of Rs.91,157.65 for the said treatment. Now, the grievance of the petitioner is that his claim for reimbursement had been denied by the respondents, on the ground that the hospitals in which the petitioner had taken treatment, for his heart ailment, had not been approved, by the Government Order, in G.O.NO.378, Finance [Pension] Department, dated 13.10.2005. Hence, the Writ Petition.

4. A counter affidavit, dated 16.7.2012, had been filed on behalf of the respondents, denying the averments made in the affidavit filed in support of the Writ Petition. Paragraph Nos.3 to 7 of the said counter affidavit read as follows:-

"3. I submit that the petitioner has been taken heart treatment first in A.G. Hospital, Tambaram on 02.12.2005 and discharged on 07.12.2005. Again the petitioner was admitted in Dr.Kamakshi Memorial Hospital, Pallikaranai, Chennai on 02.3.2006 for Angiogram test and Angioplasty and discharged on 4.3.2006.

4. I submit that the petitioner had claimed the medical expenditure of Rs.91,157.65/- under the Pensioners Health Fund Scheme on 27.04.2006. The petitioner had taken the medical treatment in the hospitals not listed in G.O.Ms.No.378, Finance [Pension] Department, dated 13.10.2005. Hence his representation to reimburse the medical expenditure was not considered by the Board.

5. I further submit that again the petitioner has given representation to the Board and pointed out the G.O.Ms.No.440 Finance [Pension] Department dated 13.9.2007 Dr.Kamakshi Memorial Hospital, Pallikaranai, Chennai has been included in the accredited list of hospitals. This G.O. takes into effect from the date of issue of the order i.e. on 13.9.2007, whereas the petitioner had taken treatment in the Dr.Kamakshi Memorial Hospital, Pallikaranai, Chennai, before this

G.O. i.e. on 2.3.2006. These details have been furnished to the petitioner on 24.10.2008.

6. I submit that the petitioner has given representation to the Government and more specifically to the Finance [Pension] and H.H.T.K. Department. The Government in Finance [Pension] Department has enclosed his representation and directed to take necessary action on medical reimbursement to the petitioner.

7. I humbly submit that based on his representation, the Board has asked remarks from the Director of Medical Education, Kilpauk, Chennai-10 on 5.11.2009 as per the G.O.Ms.No.458 Finance [Pension] Department dated 21.9.2007. The Director of Medical Education in his letter dated 01.04.2010 has informed that the petitioner had taken medical treatment before the issue of the Government Order. Hence his representation was not considered. The same reply was also informed to the petitioner on 13.04.2010."

5. In view of the submissions made by the learned counsels appearing on behalf of the parties concerned and on a perusal of the records available, this Court finds that the claim of the petitioner for medical reimbursement, had been rejected by the respondents, on the ground that the hospitals in which the petitioner had taken treatment, were not included in the list of accredited hospitals, recognized by the respondents. In fact, Dr.Kamakshi Memorial Hospital, Pallikaranai, Chennai, has been included in the accredited list of hospitals, vide G.O.Ms.No.440 Finance [Pension] Department, dated 13.9.2007, that is, an year after the treatment undergone by the petitioner in the said Hospital. However, this Court is of the considered view that the rejection of the claim of the petitioner, by the respondents, for reimbursement of the amount spent by him, towards medical disability, on the ground that the hospitals in which the petitioner took treatment, were not included in the list of accredited hospitals, recognized by the respondents, cannot be accepted. This view is supported by a decision of this Court, made in W.P.[MD] No.14585 of 2013, dated 21.01.2014. In such circumstances, this Court is of the firm view that a person cannot be denied the reimbursement of the amount spent on his treatment from a non-accredited hospital, if he was found to be otherwise eligible.

6. Accordingly, this Court finds it appropriate to direct the 1st respondent to reimburse the amount spent for the treatment of the petitioner, as claimed by him, within a period

of eight weeks from the date of receipt of a copy of this order.
The Writ Petition is disposed of, with the above directions. No costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

gs.
To

1.The Chief Executive Officer,
Tamil Nadu Khadi & V.I. Board,
Chennai.

2.The Secretary, The Govt. of Tamilnadu,
Handloom, Handicraft, Textile and Khadi Dept.,
Secretariat, Chennai.

+ 1 cc to Mr.S.K. Bose, Advocate sR.57211

+ 1 cc to Mr.C. Saravanan Advocate sr.57643

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AD(CO)
Eu 15.12.15



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