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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.08.2015

CORAM :

THE HONOURABLE MR.JUSTICE R.SUDHAKAR
and
THE HONOURABLE MS.JUSTICE V.M.VELUMANI

Writ Appeal(MD) No.859 of 2015

- 1.State of Tamil Nadu,
represented by the Joint Secretary to Government,
Home (Court V) Department, Secretariat, Fort St.,
George, Chennai.
- 2.The Joint Director of Medical
and Rural Health Service,
Thoothukudi, Thoothukudi District. .. Appellants/Respondents 1 & 2

Vs.

- 1.Mary Thilagavathi .. 1st Respondent/Writ Petitioner
- 2.The Star Health and Allied
Insurance Company Ltd.,
represented by its
Director Co-ordinator,
Branch Office,
No.58, 4th Floor,
Goods Shed Street,
Madurai 625 001. ..2nd Respondent/3rd Respondent

Writ Appeal is filed under Clause 15 of the Letters Patent against the order dated 23.04.2014 made in W.P.(MD) No.14688 of 2012 on the file of this Court.

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court for the issue of a Writ of Certiorarified Mandamus, to call for the records pertaining to the Impugned Order in Ref.No. 3983/A2/12 dated 24.09.2012 on the file of the Respondent No.2 and quash the same as illegal and consequently to direct the Respondents No.1 and 2 to provide the Medical Reimbursement to the petitioner under the Tamil Nadu Government Employees New Health Insurance Scheme within the time stipulated by this Court.

For Appellants : Mr.M.Govindan, Special Government Pleader.

For 1st Respondent : Mr.Fazil, for Mr.T.Lajapathi Roy

For 2nd Respondent : Mr.S.Anwar Sameem



(Judgment of the Court was delivered by **R. SUDHAKAR, J**)

The writ appeal is directed against the order of the learned single Judge, dated 23.04.2014 in W.P.(MD)No.14688 of 2012.

2.Learned counsel appearing for the first respondent submits that the matter is covered by the decision of the Division Bench of this Court in **Star Health and Allied Insurance Co., Ltd., Vs.A.Chokkar and another, 2010-2-LW-90**. He further submits that since the first respondent's husband paid contribution for the family health fund scheme, the Government is entitled to reimburse the expenses incurred by him.

3.With reference to the claims arising out of the said dishonouring of a claim, paragraphs 27 and 28 of the judgment cited supra are usefully extracted hereunder:

"27.Now coming to the individual cases, in all the cases, whatever may be the category, the petitioners/claimants have paid the amount. The scheme is a 'cashless' one and, therefore, it is only the Government which have to make the payment under the Rules. The Redressal Committee is empowered to decide the following circumstances, namely, any difficulty in availing treatment, non-availability of facilities, bogus availment of treatment for ineligible individuals, etc., It is really not clear what other complaints would be covered under the umbrella "etc.". But, however, since the Paragraph relating to 'Redressal of Grievances' starts with the sentence "The Hospitals shall extend treatment to the beneficiaries under the Scheme on a cashless basis", it is evident that the Committee cannot direct payment of cash.

28.Therefore, if the claimants have made payments whether for a procedure not covered or whether at a non-network hospital or they have paid when they have been treated for a covered procedure in a network hospital, their only remedy is to approach the Government under the Rules. If, however, before they take treatment they are informed that a particular procedure is not covered, then at that stage, they may approach the Redressal Committee where the medical expert can decide whether that procedure is covered or not. The Redressal Committee may also go into the complaints regarding non-availability of facility at a network hospital, which may be available in favour of the claimant when he applies under the Rules. Otherwise, we do not think that the Redressal Committee can do much in any one of these cases, since all the petitioners/claimants before us would have made payments. But, if there is a petitioner who has not settled the claim and has come before us, then, in the event, that it is for a procedure that is not covered, he may approach the Redressal Committee. In view of the fact that there are the above lacunae in the Scheme, the Government shall not deny any claim validly made under the Rules only because the claimant is a member of the Scheme".

1.Following the abovesaid decision of this Court, the learned single Judge directed the authorities to consider the claim of the first respondent for reimbursement.



5. In such view of the matter, we find no reason to interfere with the reasoned order of the learned single Judge. Hence, the writ appeal stands dismissed. No costs. Consequently, M.P(MD)No.2 of 2015 is closed.

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Sd/-

Assistant Registrar (AE)

Sub Assistant Registrar

sms

To

1. The Joint Secretary to Government,
State of Tamil Nadu Home (Court V) Department,
Secretariat, Fort St., George, Chennai.

2. The Joint Director of Medical and Rural Health Service,
Thoothukudi, Thoothukudi District.

+1CC to T.Lajapathi Advocate SR.No.44483

+1CC to Mr.T.Antony Arul Raj Advocate SR.No.44443

+1CC to Spl.Government Pleader SR.No.44603

Writ Appeal(MD) No.859 of 2015
Dated: 05.08.2015

GJM-17.8.15-3P-6C