

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP-11060-2014 (O&M)
Date of decision : 19.03.2015

Ashwani Kumar

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Dinesh Kumar, Advocate for the petitioner.

Mr. Saurabh Mohunta, DAG, Haryana.

JITENDRA CHAUHAN, J. (Oral)

Prayer in the present petition filed under Articles 226 and 227 of the Constitution of India, is for quashing of order No.GM/13/231 dated 19.09.2013 (Annexure P-6), whereby, the case of the son of the petitioner has been declared as 'no emergency case', and consequent order No.1942/13 dated 25.11.2013 (Annexure P-7), thereby, returning the case of the petitioner for medical reimbursement.

The learned counsel for the petitioner contends that the son of the petitioner, Arpit Kumar, a student of VII Standard, is a known case of a spinal ailment, called SCOLOSIS. He had been taking treatment from the Government Medical College & Hospital, Sector 32, Chandigarh, but when his condition did not improve, he was taken All India Institute of Medical Science, New Delhi, on 16.04.2013,

08.05.2013 and 09.05.2013. He was given date for MRI on 05.12.2014. However, due to the sudden deteriorating condition, he was got examined at Indian Spinal Injuries Centre, New Delhi, on 18.05.2013, 06.06.2013 and 05.10.2013 and ultimately operated upon on 05.10.2013. A sum of Rs.6,22,137/- was spent on the treatment. The bills, duly certified by the surgeon, were submitted for reimbursement to the Block Education Officer, Barwala (Panchkula), who forwarded the same to the Civil Surgeon, Panchkula, on 10.09.2013. However, vide letter dated 19.09.2013, it was informed that as per reports, no emergency was found. On this basis thereof, the bill submitted by the petitioner was returned vide Annexure P-7. The learned counsel has placed reliance on ***V. Mohini Vs. State of Haryana and others***, rendered in CWP No.7112 of 2011, decided on 26.09.2013, to contend that even if there was no emergency at the time the tests carried out in an unapproved hospital, the medical reimbursement at PGI rates is admissible.

On the other hand, the learned counsel for the respondent states that treatment taken was from an unapproved hospital without there being any emergency, therefore, the claim of the petitioner has been rightly rejected.

Heard.

In Mohini's case (supra), this Court has held as under:-

“In my opinion the stand of the State is unjustified. The latest policy of the Haryana Government dated 06.05.2005 on the subject broadly envisages that if the treatment is taken from a government hospital it shall be fully re-imbursed and if the treatment is taken from an approved hospital then the employee would be liable to be reimbursed at the PGI/AIIMS rates plus 75% of the balance, if any. The third category as per this policy is of un-approved hospital and any treatment taken therefrom is reimbursable at PGI rates with, however, the condition that the same should be certified to be an emergency treatment by the Civil Surgeon. The fact that a person gets the non-emergent surgery done from an un-approved hospital cannot be a blanket ground to deny him/her reimbursement. Of course, if some body goes in for surgery which is not necessary then such a stand can be appreciated, but if the surgery is not unjustified and, is otherwise medically required then the State should reimburse the same as per PGI/AIIMS rates...”

This Court feels that the case of the petitioner is squarely covered by the ratio of law laid down by this Court in V. Mohini's case (supra). Accordingly, the writ petition is disposed of with a direction to the competent authority to get an opinion from the Civil Surgeon as to whether the surgery undergone by the son of the petitioner was medically necessary or not. If the answer is in affirmative, in that eventuality, the reimbursement at the government rates be made to the petitioner, even if, the case does not fall in the category of an emergency surgery. The entire process be completed within a period of three months from the date of receipt of a certified copy of this order.

Disposed of.

19.03.2015
rekha/atulsethi

(JITENDRA CHAUHAN)
JUDGE