

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CWP No.6693-2014

Date of Decision: 03.09.2015

OM PARKASH DHINGRA

....Petitioner.

VERSUS

STATE OF HARYANA & ORS

....Respondents.

CORAM: HON'BLE MR. JUSTICE P.B. BAJANTHRI

Present: Mr. Rajbir Sehrawat, Advocate,
for the petitioner.

Mr. Sourabh Mohunta, DAG, Haryana.

Mr. R.D Bawa, Advocate,
for respondents No. 2 & 3.

P.B BAJANTHRI, J. (Oral)

The petitioner has prayed following relief in this petition:

“A writ in the nature of mandamus directing the respondents to reimburse the actual medical expenses incurred by the petitioner on account of operation done from Fortis Hospital Noida in terms of policy dated 6.5.2005 as per PGI Chandigarh rates.”

The petitioner is stated to have retired from the post of Mandi-Supervisor from the office of second respondent-Board on 30.11.2009. In the month of June 2011, the petitioner met with an accident while driving scooter, due to which he had severe backache.

Thus, he was compelled to rush to the Fortis Hospital, Nodia on the advise of the Specialist in Orthopedics. He was operated and was discharged on 01.7.2011. The procedure note, as recorded in the hospital at the time of operation, is extracted below:

“Patient was investigated thoroughly. Fter PAC L3 Laminectomy with L3 pedicle screw fixation (B/L) (Depuy) done on 21.06.2011. Post op patient had C/o-urinary retention which was managed accordingly. Patient was complaining pain in left lower limb, post op scan was done. Patient underwent Removal of bony spicules impinging of root (Left side) repositioning of left side of one screw (upper one) on 28.06.2011. Post operative period was uneventful”

The petitioner incurred medical expenses to the tune of Rs. 2,14,014/- and the same was placed before the respondents for reimbursement. However, the same was denied on the certificate issued by the Deputy Civil Surgeon, Panipat to the Secretary-cum-E.O. Market Committee, Panipat. It is not forthcoming whether Deputy Civil Surgeon, who has opined that the petitioner's orthopedic surgery was not an emergency one for the reasons that qualification of Deputy Civil surgeon is not forthcoming, therefore, he could not certify or opine as to whether the case of the petitioner was an emergency or not. Further learned counsel for the petitioner submitted that an identical matter was decided by this Court vide CWP No. 1523 of 2011 titled as Om

Parkash Vs. State of Haryana and others on 07.02.2013 in which respondents were directed to process the claim of the petitioner as per rates prescribed by PGIMER, Chandigarh.

Having regard to the facts and circumstances, I am of the view that petitioner's claim regarding medical reimbursement be re-examined by the competent medical officer- Specialist in that particular subject. Even otherwise, respondents may take sympathetic view to reimburse medical bills as per PGIMER rates. It is relevant to quote paras No. 9 to 11 of the earlier decision of this Court in Om Parkash's case (supra), which is extracted herein:

“9. Medical treatment, especially where the surgeries are to be conducted, is not a matter of luxury which anybody opts without there being a need. In case of an emergent need any person reaches the hospital, where he can get best treatment. At that stage, there is no time to find out or peruse the list of government/approved hospitals, which could enable an employee to get reimbursement of the expenses incurred. While getting himself operated upon, any patient runs the risk of his life. Had there been no emergency, any patient would certainly go to the hospital which is recognised by the Government as in that case, he gets full reimbursement. In case of treatment from government hospital, full reimbursement is allowed. If an employee is treated in an approved hospital, reimbursement on the expenditure incurred for treatment is made at the rates equal to PGIMER, Chandigarh. As against that, no reimbursement is allowed in case of treatment from an unapproved hospital.

10. The relationship of a doctor and a patient is a matter of confidence and trust. Any patient would like to go to the best doctor available. Even if the petitioner had not gone

to any government or any of CWP No. 1523 of 2011 [5] the approved hospitals and had chosen to get himself treated from an unapproved private hospital, the liberty cannot be left with the Head of the Department to refuse reimbursement, once it is found that the patient had been operated upon. It is not that only medicines are to be taken orally. The rejection of the claim on these hypertechnical grounds, especially in the case of a retired employee who is dependent on pension and certain other benefits granted to him after retirement on account of his satisfactory service career, is totally arbitrary. The beneficial policies cannot be interpreted or kept in water tight compartment. These are to be interpreted liberally considering the facts and circumstances of the case. The fact that the petitioner had been operated upon in Fortis Hospital, Noida for his low backache is not in dispute. Once that is so, the entitlement of the petitioner to reimbursement of the expenses made by him in terms of the rates prescribed by PGIMER, Chandigarh cannot be denied.

11. Accordingly, the action of the respondents in denying medical reimbursement to the petitioner is declared illegal. They are directed to process the claim made by the petitioner as per rates prescribed by PGIMER, Chandigarh. Needful be done within a period of two months and due payment be made to the petitioner."

In view of the observation of this Court and facts of the case, the respondents are directed to process the claim of the petitioner within a period of **four months** and medical reimbursement be released as per the rules of PGIMER.

The Writ petition is accordingly, disposed of.

03.09.2015

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**(P.B BAJANTHRI)
JUDGE**