IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.03.2016

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THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No.26764 of 2014
and M.P.Nos.1 and 2 of 2014

V.Shanthi ... Petitioner

vs.

1.The Principal Secretary to Government,
Finance Department,
Secretariat, Chennai-9.

2.The Commissioner of Treasuries and Accounts,
Panagal Building, Saidapet,
Chennai-15.

3.The District Collector,
Kancheepuram District,
Kancheepuram.

4.The Joint Director of Health Services,
District Treasurer,
Kancheepuram District.

5.The District Treasury Officer,
District Treasurer,
Kancheepuram District. ... Respondents

Writ petition has been filed under Article 226 of the Constitution of India, praying for a Writ of certiorarified mandamus to call for the records relating to the impugned proceedings issued by the second respondent in R.C.No.24152/2012.NHIS dated 20.2.2014 and consequential proceedings issued by the fifth respondent in R.C.No.4006/2014/K2 dated 29.3.2014 and quash the same and consequently direct the respondents 2 and 5 to release the medical reimbursement fund as per the sanction order issued by the third respondent in R.C.No.12518/2013/R1 dated 25.9.2013 along with interest within a time frame to be fixed by this Court.

For Petitioner : Mr.G.Sankaran

For Respondents : Mr.V.Jayaprakash Narayanan,
Spl. Govt. Pleader

ORDER

The petitioner has come up with the present writ petition, challenging the impugned proceedings of the second respondent dated 20.2.2014 and the consequential proceedings of the fifth respondent dated 29.3.2014 and consequently, to direct the respondents 2 and 5 to release the medical reimbursement fund as per the sanction order issued by the third respondent in R.C.No.12518/2013/R1 dated 25.9.2013 along with interest within a time frame to be fixed by this Court.

2. The case of the petitioner, in brief, is as follows:-

(a) The petitioner is working as Secondary Grade Teacher in Panchayat Union Middle School, Kancheepuram District. She gave birth to a girl child named as R.Nandhini on 11.6.1997. While she was two years old, it was diagnosed that she was suffering from Ventricular Septal Defect Closure and PDA Ligation (1999) - MMM which is a congenital heart disease. Therefore, she was advised to undergo open heart surgery even at the age of two years. Accordingly, the open heart surgery was conducted in the year 1999 and she was fitted with stents at three places. After the operation, the child was on Post Operative Treatment and Medical Care for several years.

(b) In the year 2012, when she was 15 years old, again she suffered from heart ailment of abnormal pulmonary heart beat called as Atrial Tachycardia and Atypical Atrial Flutter - Lower Loop Flutter due to Scar type II Diabetes Mellitus. The heart disease was due to the scar inside the heart resulting in Radio Frequency Ablation of RFA affecting the function of the heart requiring intensive medical treatment. Accordingly, she was hospitalized in the Madras Mission Medical Hospital on 19.6.2012 and she underwent the treatment procedure of Radio Frequency Procedure of Radio Frequency Ablation of AT and AFL Using 3-D Electroanotomical Mapping System, by which the stents were inserted inside the heart by EAM System similar to Angiogram. The said treatment is a life saving treatment. Unless her daughter underwent EAM System, her life cannot prolong and it is a life saving emergency treatment in the heart.

(c) The petitioner, being a Government Servant, made an application claiming reimbursement of the medical expenses to the respondents. The New Health Insurance Scheme, 2012 was implemented only after launching of the scheme from 1.7.2012. Since the treatment procedure was conducted on 20.6.2012, the date falls between the interregnum period from 11.6.2012 to 30.6.2012 and hence, the entire period from 11.6.2012 to 30.6.2012 is covered by G.O.Ms.No.221, Finance Department, dated 20.6.2012. The application submitted by the petitioner along with connected records have been placed before the District Level Empowered Committee and a sum of Rs.90,279/- was authorized for medical reimbursement. Based on the same, the third respondent vide proceedings dated 25.9.2013 accorded sanction for payment of Rs.90,279/- as Medical reimbursement for the medical treatment undergone by her daughter on 20.6.2012.

(d) When the order of sanction of medical reimbursement was forwarded by the third respondent to the second respondent for allotment of amount through District Treasury Officer, Kancheepuram, instead of ordering for allotment, the second respondent has returned the same stating that the treatment undergone by her daughter is not included in the list of diseases for treatment / surgery already approved for New Health Insurance Scheme in the block year 2008-2012. Consequently, the fifth respondent has also issued proceedings dated 29.3.2014 rejecting the claim of the petitioner with an observation that the medical reimbursement can be preferred under Tamil Nadu Medical Attendance Rules for eligible reimbursement through respective Administrative Departments in the Government. Hence, challenging the same, the petitioner has come up with the present writ petition.

3. The fifth respondent has filed a counter, wherein the following facts have been set out:-

(a) The petitioner's request for medical reimbursement of a sum of Rs.91,000/- for the disease “Procedure Radio Frequency Ablation of At and AFL using 3-E Eletroanotomical Mapping system” was recommended by the Joint Director of Health Services vide letter dated 29.7.2013 and the District Collector, Kancheepuram has also issued proceedings vide RC No.12518/2013.R1 dated 25.9.2013 according sanction of a sum of Rs.90,279/- being the medical reimbursement to the petitioner in connection with the treatment undergone by her daughter and authorizing the Treasury Officer, Kancheepuram for preparation of the bills to draw and disburse the same to her. Based on the same, the fifth respondent vide letter dated 20.12.2013, requested the Commissioner of Treasuries and Accounts, Chennai to allot necessary funds for the said claim by enclosing the copy of the proceedings of the District Collector along with summary report and cash bills duly countersigned by the Joint

Director of Medical Services, Kancheepuram.

(b) The proposal sent by the fifth respondent has been considered and rejected by the Director of Treasuries and Accounts, Chennai, stating that " Rejected under Interim Period – Procedure not covered – Claim to be preferred under TN Medical Attendance Rules". Hence, the fifth respondent, while returning the claim of the petitioner informed her that the approved list of diseases, treatment, surgeries and hospitals which were already approved for NHIS for the block year 2008-2012 alone shall be adopted for authorization of medical reimbursement amount for the period from 11.6.2012 to 30.6.2012 as ordered in G.O.Ms.No.221 Finance (Salaries) Department, dated 20.6.2012. In other cases, if the medical reimbursement is claimed for the unapproved diseases / treatment and for the treatment at unaccredited hospitals under NHIS (2008-2012), such claims can be preferred under the Tamil Nadu Medical Attendance Rules for eligible reimbursement through the respective administrative department in the Government. Thus, the fifth respondent sought for the dismissal of the writ petition.

4. I have heard the learned counsel appearing for the petitioner and the learned Special Government Pleader appearing for the respondents.

5. Keeping the submissions made on either side, I have carefully gone through the entire materials available on record.

6. The petitioner's daughter underwent the treatment procedure of Radio Frequency Procedure of Radio Frequency Ablation of AT and AFL Using 3-D Electroanotomical Mapping System on 20.6.2012. By way of G.O.Ms.No.430 dated 10.9.2007, the New Health Insurance Scheme was introduced. The petitioner, being a Government Employee, is entitled for reimbursement of medical expenses for the said operation undergone by her daughter. Hence, she submitted an application claiming reimbursement for the medical expenses incurred by her for the operation undergone by her daughter. But, G.O.Ms.No.430 dated 10.9.2007 covered the block year 2008-2012. On the date when the petitioner's daughter underwent the operation viz., 20.6.2012, the said GO was not in force. Subsequently, a New Health Insurance Scheme, 2012 was implemented after launching of the scheme from 1.7.2012 and hence, the entire period of 11.6.2012 to 30.6.2012 is covered by G.O.Ms.No.221 Finance Department dated 20.6.2012. Since the treatment procedure was conducted on 20.6.2012, the said date falls during the interregnum period between 11.6.2012 and 30.6.2012 and hence, G.O.Ms.No.221 Finance Department dated 20.6.2012 is applicable to the case of the petitioner. As per G.O.Ms.No.221 Finance

Department dated 20.6.2012, the Government delegate powers to the following authorities as the sanctioning authorities for the period from 11.6.2012 to 30.6.2012:-

(i) The Secretaries to Government in respect of employees in Secretariat Departments;

(ii) The Heads of Departments in respect of employees in Chennai District; and

(iii) The District Collectors in respect of employees other than Chennai District.

Accordingly, the third respondent vide proceedings dated 25.9.2013, accorded sanction for payment of Rs.90,279/-. However, the second respondent rejected the same since the treatment undergone by the petitioner's daughter is not included in the earlier GO in G.O.Ms.No.430 dated 10.9.2007. In my considered opinion, though G.O.Ms.No.430 dated 10.9.2007 does not contain the exhaustive list of life saving treatment / surgeries, vide G.O.Ms.No.221 Finance Department dated 20.6.2012, the Government delegate powers to the authorities mentioned above for sanctioning reimbursement claims of the Government employees for the surgeries / treatment during the interim period between 11.6.2012 and 30.6.2012. Based on the said GO., viz., G.O.Ms.No.221 Finance Department dated 20.6.2012, the third respondent, after scrutinizing the medical records and bills / vouchers, has approved the said amount. Hence, absolutely, I do not find any infirmity in the sanction order made by the third respondent. Therefore, I do not find any justification in the impugned order passed by the second respondent dated 20.2.2014 and the consequential proceedings of the fifth respondent dated 29.3.2014 and they are liable to be quashed and accordingly, quashed.

7. In the result, the writ petition is allowed and the respondents 2 and 5 are directed to release the medical reimbursement fund to the petitioner as per the sanction order issued by the third respondent in R.C.No.12518/2013/R1 dated 25.9.2013 within a period of four weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

sbi

To

1.The Principal Secretary to Government,
Finance Department,
Secretariat, Chennai-9.

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Panagal Building, Saidapet,
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3.The District Collector,
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4.The Joint Director of Health Services,
District Treasurer,
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5.The District Treasury Officer,
District Treasurer,
Kancheepuram District.

+1 cc to G.Sankaran, Advocate, sr.17175
+1 cc to Government Pleader, sr.16980

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