

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 21.11.2016

CORAM:

THE HON'BLE MR.JUSTICE **M.S.RAMESH**

W.P.No.19015 of 2013

& MP.NO.1 of 2013

R.Kamalakaran

.. Petitioner

Vs

- 1.The Director of Medical and Rural Health Services,
Chennai 600 005.
 - 2.The Director of Municipal Administration,
Ezhilagam, Chepauk, Chennai 600 005.
 - 3.The Commissioner,
Erode City Municipal Corporation,
Erode.
- .. Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Mandamus directing the respondents to disburse the amount of Rs.99,571/- (Rupees Ninety Nine Thousand five hundred and seventy one only) incurred by the petitioner towards medical expenses rendered to her wife K.Shanthi, in Sri Ramakrishna Hospitals, Coimbatore from 14.01.2008 to 13.02.2008, along with interest on the delayed payment.

For Petitioner : Mr.M.Ravi
For R1 & R2 : Mr.R.Govindasamy
Special Government Pleader
For R3 : Mr.Raja Mathivanan

ORDER

The petitioner is an employee of the third respondent/ Corporation. His wife was diagnosed for " Acute Lymphoblastic Leukemia Peritonitis/Septicemia Cardio respiratory Arrest" and had undergone treatment at Sri Ramakrishna Hospital, Coimbatore from 14.01.2008 to 13.02.2008, on which latter date, she died. During the course of treatment, the petitioner had spent a sum of Rs.99,571/- towards hospital expenses and he is entitled for medical reimbursement under the Tamil Nadu Government Employees Health Fund Scheme. Since the petitioner's wife's ailment falls within the list of treatments specified in G.O.Ms.No.377 Finance (Salary) Department dated 13.10.2000, he had made a request to the third respondent dated 05.03.2008, which was forwarded to the second respondent for medical reimbursement. On the other hand, the second respondent had raised a

doubt as to whether the particular ailment/treatment falls under the list of the Scheduled ailment in G.O.Ms.No.377 Finance (Salary) Department dated 13.10.2005 and had kept the application pending. Thereafter, no orders have been passed either to sanction or reject the petitioner's claim for medical reimbursement. In view of the inaction on the part of the respondents, the petitioner has filed the present writ petition.

2. Heard Mr.M.Ravi, learned counsel appearing for the petitioner; Mr.R.Govindasamy, learned Special Government Pleader appearing for the respondents 1 and 2 and Mr.Rajamathivanan, learned counsel appearing for the third respondent.

3. The Tamil Nadu Government had instituted a fund called Tamil Nadu Government Employees Health Fund Scheme with an object to provide a measure of relief to Government Employees, if their immediate family members are affected by major ailments. The intention of the scheme is to extend benefits to major ailments in matters like this and the Government orders should not be strictly construed as to whether particular type of ailments is present in the schedule or whether the hospitals which extends the treatment to the patient fall within the list of hospitals scheduled in the Government Orders. This Court in various occasions, have come down heavily against the Government authorities for rejecting or refusing to extend the medical benefits on the ground that the particular ailments or hospitals are not found place in the scheduled ailments/hospitals in the Scheme.

4. Nevertheless, in the case in hand the petitioner's wife was diagnosed for " Acute Lympholastic Leukemia Peritonitis/Septicemia Cardio respiratory Arrest", which in common parlance is referred to as blood cancer. In the list of diseases scheduled in G.O.Ms.No.377, Finance (Salary) Department dated 13.10.2005, cancer surgery finds place in Annexure-I Schedule-I (IV) under the head for Oncology. As such, there is no impediment for the respondents to disburse the medical bills claimed by the petitioner. It would be open to the respondents to verify the authenticity and correctness of the claim made in the bills with reference to the amounts therein under various heads.

5. It would be appropriate to observe here that once it is admitted that an individual is entitled for the claim under the medical reimbursement scheme, the same cannot be rejected on the ground that the ailment or the hospital is not included the Government Order. As stated earlier, the scheme is a beneficial scheme and stipulating a few scheduled hospitals alone cannot be a policy of the Government. Consequently the respondents cannot refuse for reimbursement on the ground that the ailment or the hospital which treated the petitioner's wife is not scheduled in the said G.O.

6. In view of the above findings, the writ petition is allowed with a direction to the third respondent herein to disburse the amount of Rs.99,571/- (Rupees Ninety nine thousand five hundred and seventy one only) incurred by the petitioner towards his wife's medical expenses at Sri Ramakrishna Hospital, Coimbatore from 14.01.2008 to 13.02.2008 along with interest at the rate of 6% per annum from the date of petitioner's claim. The said exercise shall be completed within a period of six weeks from the date of receipt of a copy of this order. No costs. Consequently, connected M.P. is closed.

Sd/-

Asst.Registrar

/true copy/

Sub Asst. Registrar

kkd

To

- 1.The Director of Medical and Rural Health Services,
Chennai 600 005.
- 2.The Director of Municipal Administration,
Ezhilagam, Chepauk, Chennai 600 005.
- 3.The Commissioner,
Erode City Municipal Corporation,
Eorde.

+1 CC to Mr.M.Ravi, Advocate Sr.68208

+1 CC to Mr.M.Rajamathivanan, Advocate Sr.No.67377

+1 CC to The Government Pleader Sr.67929

CO-SK

ths : 29.12.2016

W.P.No.19015 of 2013