



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.11.2016

CORAM:

THE HONOURABLE DR.JUSTICE S.VIMALA

W.P (MD) No.20327 of 2016

and

W.M.P (MD) No.14526 of 2016

D.Irene

: Petitioner

Vs.

- 1.The Secretary to Government,
Secretariat, Fort St. George,
Chennai.
- 2.The Director of School Education,
College Road, Chennai.
- 3.The United India Insurance Co. Ltd.
rep. by its Divisional Manager,
Divisional Office VI,
5th Floor, P.L.A.Rathana Towers,
No.212, Anna Salai, Chennai - 6.
- 4.District Level Committee
rep. by Collector,
Madurai, Madurai District.
- 5.The Joint Director,
Office of Joint Director,
Kallar Reforms, Madurai - 20.

: Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records on the file of third respondent pertaining to its order bearing No.Nil dated 09.05.2016 and to quash the same and consequently directing the respondents to disburse the amount spent by the petitioner for the treatment underwent by her within a stipulated time fixed by this Court.

For Petitioner : Mr.S.C.Herold Singh

For Respondents : Mr.M.Murugan,
1,2,4 and 5 Government Advocate.

For Respondent No.3 : Mr.Shajahan



O R D E R

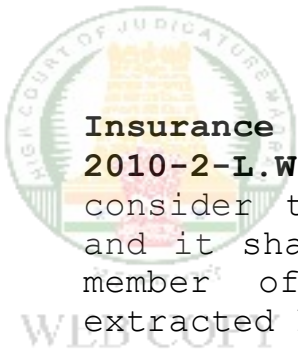
This writ petition has been filed for issuance of a Writ of Certiorarified Mandamus praying to quash the impugned order dated 09.05.2016 passed by the third respondent and consequently to direct the respondents to disburse the amount spent by the petitioner for the treatment underwent by her.

2. Heard the learned counsel appearing for the petitioner, the learned Government Advocate, appearing for the respondents 1,2,4 and 5 and the learned counsel for the third respondent.

3. The case of the petitioner is that the petitioner is working as P.G. Assistant (English) at Kallar Higher Secondary School, Ayyappaanaickanpatty. She is the member of the Government of Tamil Nadu Employees New Health Insurance Scheme and she is also contributing to the said scheme. On 21.03.2014, when she was travelling in Madurai to Punalur Passenger Train from Madurai to Thiruvananthapuram, she suffered from chest pain and she was admitted in ICU, Thiruvananthapuram Medical College Hospital and she underwent Anjio Blast Surgery and she was discharged from the hospital on 07.04.2014. She was also taking treatment in NIMS Hospital, Neyyattinkarai. She had totally spent a sum of Rs.1,79,311.75 for medical treatment. Thereafter, she made an application to the Head Master, Government Kallar Higher Secondary School, Ayyappanayakkanpatti, Madurai on 23.04.2014, enclosing all the bills and discharge summary for medical reimbursement and the same was forwarded to the Joint Director of Rural Health Services, Usilampatti, who in turn, returned the same requesting to send thorough the District Level Committee. The third respondent after receiving the same, has forwarded to the second respondent. Thereafter, she made an application to the fourth respondent on 30.04.2104, who in turn, by the order dated 07.05.2015, directed the Joint Director of Health Services to enquire into the same. The District Collector, by the order dated 31.08.2015, called her to appear on 08.09.2015 at 04.00 p.m. and accordingly she also appeared and produced all the documents. Thereafter, the same was forwarded to the third respondent. The third respondent on 09.05.2016, rejected her claim for medical reimbursement stating that she is not eligible to get medical reimbursement and the hospital, where she has taken treatment, does not found place in the list of Network hospital mentioned in G.O.No.680, dated 29.07.2013 issued by the Finance (Salaries) Department. Challenging the same, this writ petition has been filed.

4. The learned counsel for the third respondent would submit that when a treatment has been taken in a non-network hospital, the Insurance Company has been exonerated as per the decision of

Star Health and Allied Insurance Co. Ltd., rep. by its Project Officer, Tamil Nadu Government Employees New Health

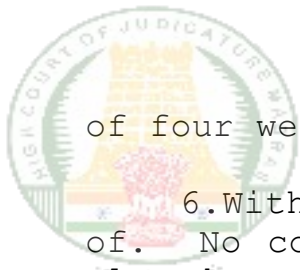


Insurance Scheme, Chennai v. A.Chokkar and another reported in **2010-2-L.W.90**, under which, the Government has been directed to consider the claim of the petitioner over medical reimbursement and it shall not be declined merely because of the employee is a member of the Insurance Scheme. The relevant paragraph is extracted here-under:

"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 complaint 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".

As per the said Judgment, it is clear that the Insurance Company is exonerated from the payment of the claim, as it is an admitted fact that the treatment was given in a non-network hospital.

5. The learned Government Advocate appearing for the respondents 1, 2, 4 and 5 would submit that the fifth respondent has addressed a communication to the District Collector, Madurai, stating that the claim of the petitioner has been referred to the District Level Empowered Committee and it is under the consideration of the Committee. Under such circumstances, the District Level Empowered Committee shall finalise the claim of the petitioner within a period of four weeks, from the date of receipt of a copy of this order and forward the report to the first respondent and on receipt of the report from the District Level Empowered Committee, the first respondent will pass the final orders in the light of the decision of this Court in **Star Health and Allied Insurance Co. Ltd., rep. by its Project Officer, Tamil Nadu Government Employees New Health Insurance Scheme, Chennai v. A.Chokkar and another** reported in **2010-2-L.W.90**, within a period



of four weeks, thereafter.

6. With the above directions, this writ petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

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Sd/-
Assistant Registrar (AE)
/True copy/

Sub Assistant Registrar

To

1. The Secretary to Government,
Secretariat, Fort St. George,
Chennai.
2. The Director of School Education,
College Road, Chennai.
3. The Collector,
District Level Committee,
Madurai, Madurai District.
4. The Joint Director,
Office of Joint Director,
Kallar Reforms, Madurai - 20.

+1cc to special Government Pleader SR.No.66636
+1cc to Mr.A.Shajahan, Advocate SR.No.66550

smn

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ORDER MADE IN
W.P (MD) No.20327 of 2016
and
W.M.P (MD) No.14526 of 2016
07.11.2016