



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.11.2016

C O R A M

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THE HON'BLE DR.JUSTICE S.VIMALAW.P.(MD) No.22668 of 2016andW.M.P.(MD)No.16224 of 2016

S.Karunakaran

... Petitioner

Vs.

1. The Director of Pension,
Finance (Pension) Department,
259 Anna Salai, 3rd Block, 2nd Floor,
Teynampet, Chennai 600 006
2. The District Collector / District Empowered Committee,
Ramanathapuram
3. The Joint Director, Welfare Department (General),
Ramanathapuram
4. The Treasury Officer,
Treasury Office, Ramanathapuram

.. Respondents

Prayer:- Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus calling for the records of the impugned orders passed by the second respondent dated 16.08.2016 and consequential orders passed by the third and fourth respondents, dated 06.10.2016 bearing Na.Ka.4166/Pa2/2016 and 19.10.2016 bearing O.Mu.No.9780/2016/G1, respectively, and quash the same and direct the respondents to reimburse the medical expenses incurred by the petitioner's wife to a sum of Rs.2,00,000/- along with 12% interest to the petitioner herein.

For petitioner : Mr. R.Saravanan

For Respondents : Mr. M.Murugan, Govt. Advocate

O R D E R

This writ petition has been filed by the petitioner seeking reimbursement of the medical expenses incurred by the petitioner's wife for a sum of Rs.2,00,000/- with 12% interest to the



2. Mr.M.Murugan, learned Government Advocate takes notice for the respondents. By consent of the learned counsel appearing for both sides, the writ petition is taken up for final disposal at the stage of admission itself.

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3. Heard the learned counsel appearing for both sides.

4. The petitioner, having worked as Assistant Agricultural Officer in the Directorate of Agriculture, got retired on 31.01.2011. The New Health Insurance Scheme, 2014, was introduced by the Government to provide health care assistance to the pensioners (including spouse) / Family pensioners through the United India Insurance Company Limited, Chennai, vide G.O.Ms.No.171, dated 26.06.2014. The petitioner is also a member of the scheme and he has been paying the contribution periodically and regularly.

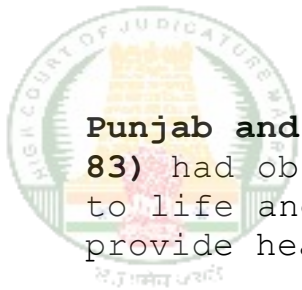
5. While so, on 19.04.2016, the petitioner's wife, Panchu, was admitted in the SIMS Hospital, Vadapalani, Chennai, and on diagnosis, it was found that his wife was suffering from Right Pica Aneurysm with Sub Arachnoid and intraventricular, and hence the doctors suggested for immediate operation. The petitioner's wife underwent operation on 21.04.2016 and he incurred Rs.3,84,497/- towards Hospital fees, expenses towards medicines and scan expenses, etc.,

After discharge of his wife, the petitioner made an application for settlement of medical claim to the respondents. Upon perusing the application submitted by the petitioner, the fourth respondent had forwarded the same to the Empowered Committee (PHHIS), on 14.06.2016, bearing No.5080/2016/G1, for which, the petitioner received two replies, .e., (i) dated 06.10.2016 bearing Na.Ka.4166/Pa2/2016 and (ii) 19.10.2016 bearing O.Mu.No.9780/2016/G1 from the third and fourth respondents stating that since the treatment was taken in the unapproved Hospital, the Empowered Committee had rejected the claim of the petitioner on 16.08.2016.

5. In similar circumstances, this Court has held that a person struggling for life cannot be expected to search for a recognized hospital to save his life when he requires immediate medical assistance. The idea to get the medical reimbursement will not certainly strike in their mind at that point of time so as to search for hospitals, which are listed by the Government as recognized institutions. Therefore, the authorities have got no right to reject the claim of the petitioner for reimbursement on the sole ground that the petitioner had not taken treatment in the approved hospitals.

<https://hcservices.ecourts.gov.in/hcservices/>

6. Further, various decisions of this Court as well as the Hon'ble Supreme Court, (more particularly, in the case of **State of**



Punjab and others v. Mohider Singh Chawla and Others (1997 (2) SCC 83) had observed that the right to health is integral to the right to life and the Government is under a constitutional obligation to provide health facilities.

7. This Court, in the case of **K.Balswami v. Director of Pension, Anna Salai, Chennai and another, reported in 2007 (2) CTC 494**, has held that the object of the scheme and policy of the Government is to give financial support to the deserving persons, who contributed towards the Health Fund Scheme, naturally it is not open to the authorities to suggest the manner of treatment or to suggest that the treatment should be undergone in a particular hospital alone which can never be the policy of the Government.

8. The learned Government Advocate appearing for the respondents also agrees that the petitioner is entitled for reimbursement.

9. Considering the facts and circumstances of the case and the decisions, referred to supra, the impugned orders passed by the second respondent dated 16.08.2016 and consequential orders passed by the third and fourth respondents, dated 06.10.2016 bearing Na.Ka.4166/Pa2/2016 and 19.10.2016 bearing O.Mu.No.9780/2016/G1, respectively, are hereby set-aside and the respondents are directed to reimburse the medical expenses incurred by the petitioner, along with interest and pass appropriate orders, within a period of six weeks from the date of receipt of a copy of this order.

10. The writ petition stands disposed of accordingly. No costs. Consequently, the connected WMP is closed.

Sd/-

Assistant Registrar(CSII)

/True Copy/

Sub Assistant Registrar

srk

To

1. The Director of Pension,
Finance (Pension) Department,
259 Anna Salai, 3rd Block, 2nd Floor,
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2. The District Collector / District Empowered Committee,
Ramanathapuram

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3. The Joint Director, Welfare Department (General),
Ramanathapuram



4. The Treasury Officer,
Treasury Office, Ramanathapuram

+1cc to Spl.Government Pleader Sr.No. 73231

+1cc to Mr.R.Saravanan

Advocate Sr.No. 72957

JAM/21.12.16/SS 2/4P-7C

W.P.(MD) No.22668 of 2016 and
W.M.P.(MD) No.16224 of 2016
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