BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.12.2016

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THE HON'BLE Dr.JUSTICE S.VIMALA

W.P(MD) No.23340 of 2016
and
W.M.P(MD)Nos.16771 and 16772 of 2016

D.Kalimuthan ... Petitioner

-vs-

1.The Principal Secretary to Government,
Department of Finance (Salaries),
Fort St., George,
Chennai 600 009.

2.The Commissioner of Treasuries and
Accounts, Panagal Building,
Saidapet, Chennai 600 015.

3.The District Collector,
Ramanathapuram District,
Ramanathapuram.

4.The Joint Director of Medical & Rural
Health Services,
Ramanathapuram District,
Ramanathapuram.

5.The District Treasury Officer,
Ramanathapuram District,
Ramanathapuram.

6.The Divisional Manager,
United India Insurance Company Limited,
V Floor, P.L.A, Rathna Towers,
212, Anna Salai,
Chennai 600 006. .. 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 relating to the impugned order dated 05.02.2016 of the 6^{th} respondent and consequently issued letter in Na.Ka.No.5346/P-2/2015, dated 14.03.2016 of the 4^{th} respondent and quash the same and consequently directing the respondents to reimburse the medical expenses of Rs.2,63,854/- with interest to the petitioner.

For petitioner : Mr.M.Saranavanakumar
For Respondents : Mr.A.Muthukaruppan
Additional Government Pleader

O R D E R

This writ petition has been filed, seeking to quash the orders of the sixth and fourth respondents dated 05.02.2016 and 14.03.2016 respectively. The petitioner has also sought a direction to the respondents to reimburse the medical expenses of Rs.2,63,854/- with interest to the petitioner.

2.Heard the learned counsel for the petitioner and the learned Additional Government Pleader for the respondents. By consent, the writ petition itself is taken up for final disposal at the stage of admission.

3.The case of the petitioner is that the petitioner is working as Tahsildar (Social Security Scheme), Thiruvadanai Taluk Office, Thiruvadanai, Ramanathapuram District. Since the petitioner's wife was suffering from heart ailment, she was admitted in Apollo Hospital, Chennai on 31.07.2015 and underwent surgery on 03.08.2015.

4.According to the petitioner, he spent a total sum of Rs.2,63,854/- towards the said treatment. Hence, the petitioner has submitted a representation to the respondents on 16.09.2015, requesting to reimburse the entire expenses. The sixth and fourth respondents rejected the claim of the petitioner vide orders dated 05.02.2016 and 14.03.2016 respectively, on the ground that the procedure adopted, i.e. treatment given to the petitioner's wife is not the one listed in the Government Order, and, therefore, it is not possible to get reimbursement. Hence, the petitioner has approached this Court by filing of this writ petition.

5. Perusal of the order dated 05.02.2016 would go to show that the procedure for taking treatment under NHIS emphasis that the scheme is on cashless basis and no payment is to be paid by the employee to the approved hospitals (Network Hospitals); payment will be made to the Hospitals only for approved treatment procedures mentioned in the GO; payment will be made only after the Pre Authorization approved obtained; any claim in deviation of the above procedure for re-reimbursement is liable to be rejected.

5.1. In the order, it has been stated that as per G.O.243 dated 29.06.2012, there are 59 surgical and 54 medical and re-engagement procedure listed in G.O.243 which are covered under the scheme and the procedure recurrent PSVT - PAROXYSMAL ATRIAL TACHYCARDIA (SVC Original) & Normal LV function is not listed in the G.O. It is also stated that payment will be made only to the hospital for approved treatment procedure and as the claim is in deviation of the procedure, reimbursement is rejected.

5. The learned counsel for the petitioner submitted that the rejection order passed by the respondents 6 and 4 is erroneous, even though the treatment procedure is not listed in the Government Order, the petitioner's wife having been treated in Apollo Hospital, Chennai as per the certificate issued by the Hospital and in view of the fact that the relevant Government Orders having been issued several years ago, the advanced type of treatments are not included in the approved list and, therefore, the respondents are not justified in rejecting the claim of the petitioner, particularly, when he is continuously contributing to the New Health Insurance Scheme.

6.In the case of ***Star Health and Allied Insurance Co., Ltd., Vs.A.Chokkar,*** reported in ***2010 2 LW 90***, the issue was raised with reference to the claims arising out of the said dishonouring of claim. Paragraphs 27 and 28 of the judgment cited (supra) are usefully extracted hereunder:-

> *"27.Now coming to the individual cases, in all the cases,* ***whatever may be the category****, the petitioners/claimants have paid the amount. The scheme is a 'cashless' one and, therefore, it is only the Government which have to make the payment under the Rules. The Redressal Committee is empowered to decide the following circumstances, namely, any difficulty in availing treatment, non-availability of facilities, bogus availment of treatment for ineligible individuals, etc., It is really not clear what other complaints would be covered under the umbrella "etc.". But, however, since the Paragraph relating to 'Redressal of Grievances' starts with the sentence "The Hospitals shall extend treatment to the beneficiaries under the Scheme on a cashless basis", it is evident that the Committee cannot direct payment of cash.*
>
> 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 complaints 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".

7. From the reported decision, it is clear that once the claim is genuine one and the treatment has been taken by an eligible person, then it is for the Government to consider the claim of the petitioner. In this case also, the genuineness of the treatment is taken and eligibility of the spouse to take treatment are not under dispute. Neither it is a bogus treatment nor the treatment is for an ineligible candidate.

8. Under such circumstances, the respondents are directed to consider the claim of the petitioner as made in this writ petition in the light of the judgment reported in ***2010 2 LW 90 (Star Health and Allied Insurance Co., Ltd., Vs.A.Chokkar and another)*** and to pass appropriate orders, within a period of six weeks from the date of receipt of a copy of this order.

9.The writ petition is disposed of with the above direction. No costs. Consequently, W.M.P(MD)Nos.16771 and 16772 of 2016 are closed.

Sd/-
Assistant Registrar(RTI)

/True copy/

Sub Assistant Registrar

To
1.The Principal Secretary to Government,
Department of Finance (Salaries),
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212, Anna Salai,
Chennai 600 006.

+1cc to MR.Saravanakumar, Advocate, SR.No:78509
+1cc to The Spl. Government Pleader,Madurai Bench of Madras High Court,Madurai SR.No:79800

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AE/CM MSA/20.02.2017/5P/9C

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