



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.12.2016

CORAM:

THE HONOURABLE MR. JUSTICE R.SURESH KUMAR

W.P.(MD) No.9761 of 2013

and M.P.No.1 of 2013

S.Vijaya

...Petitioner

Vs.

1.The Additional Director,
Tamil Nadu Health Scheme,
Directorate of Medical and
Rural Health Service Campus,
New Building 2nd floor,
Teynampet, Chennai.

2.The District Collector
Madurai District, Madurai.

3.The Regional Coordinator,
Star Health and Allied Insurance
Corporation Limited,
Theni Main Road,Kalavasal, Madurai.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus to call for the records pertaining to the impugned order in Mu.Mu.No.15553/Kabi2/3/2/2011 dated 16.04.2012 passed by the 1st respondent and quash the same and direct the 3rd respondent to provide a medical reimbursement of Rs.90,068/- to the petitioner.

For Petitioner : Mr.J.Mathesh

For Respondents : Mr.V.Muruganantham for R1 & R2

Addl. Government Pleader

Mr.T.Antony Arul Raj for R3

ORDER

The prayer in the writ petition is for a Certiorarified Mandamus challenging the impugned order in Mu.Mu.No.15553/Kabi2/3/2/2011, dated 16.04.2012, of the 1st respondent and quash the same and direct the 3rd respondent to provide medical reimbursement of Rs.90,068/- to the petitioner.

2.The petitioner is a Government servant and she had taken treatment for Ulcer in the colon for the past 10 years. After having consulted with experts, ie., specialists in Gastroenterology, as per the doctor's advice, she decided to operate to remove the large intestine to save her.



3. Accordingly, the petitioner was admitted in Bagavathi Hospital as an inpatient on 15.06.2009, where the in-charge told that Ulcerative Colitis disease is outside the scope of the disease formulated by the 1st respondent and the same is not covered under the 3rd respondent Insurance scheme. Thereafter, the petitioner had approached the third respondent to get the details about the Cashless Health Protection Scheme and it was replied that there was no Cashless Health Protection Scheme. Therefore, having no other option, the petitioner had to take treatment on her own costs. Therefore, on the advice of the Experts, surgery was taken place at Madurai Palanganatham N.S.Hospital on 22.06.2009 and she was inpatient between 19.06.2009 and 27.07.2009 at the said hospital and she had spent a sum of Rs.90,068/- for the said surgery. Thereafter, she had sent a request for reimbursement of the said amount to the 2nd respondent on 18.11.2009. The 2nd respondent, in turn, had directed the petitioner to approach the 3rd respondent for reimbursement of the medical expenses. The petitioner had sent further representation to the 3rd respondent on 31.01.2010 and the 3rd respondent had given a reply, dated 05.06.2010, to the petitioner specifying the scope of the Scheme formulated by the 1st respondent, thereby, declining to accede to the request of the petitioner. The petitioner had also approached the 2nd respondent by way of appeal against the order of the 3rd respondent dated 20.02.2012. However, the 2nd respondent rejected the appeal on 16.04.2012 specifying that Ulcerative Colitis Disease is outside the scope of the list of the diseases formulated by the 1st respondent. Therefore, according to them, the surgery undertaken by the petitioner was not covered under the scheme. Ultimately, the 1st respondent, by order dated 16.04.2012, has rejected the claim of the petitioner for the reason that the hospital, where the petitioner had taken the treatment (surgery) was not an approved hospital and also the disease for which, the treatment was taken by the petitioner is not in the list of diseases covered under the Scheme. For these reasons, the request of the petitioner was rejected vide impugned order of the 1st respondent, which is under challenge in this writ petition.

4. Heard the learned counsel for the petitioner, the learned Additional Government Pleader for the respondents 1 and 2 and the learned counsel for the 3rd respondent.

5. The issue raised by the petitioner herein is in a very narrow campus, as two reasons adduced by the 1st respondent in the cryptic order of rejection, which is impugned herein, cannot be sustained, as these reasons cannot be said to be the reasons for rejection for medical reimbursement for the Government servant covered under the Scheme. Since this Court, in number of earlier <https://hccases.sco.nic.in/hccases/> held unequivocally that the non approval of the Hospitals, where a treatment is taken by the Government servant, cannot be a ground for rejection of reimbursement.



6. Insofar as the disease for which, treatment was taken by the petitioner is concerned, even the said disease is a common disease comes under the Gastro intestinal surgical treatment under the Head of Gastroenterology and it has been specifically included in the list of the diseases covered under the Scheme as per Annexure II. In view of the said factors, both the reasons cited by the 1st respondent in the order impugned cannot be sustained.

7. The learned counsel for the 3rd respondent Insurance Company had contended that it is immaterial, whether the hospital was approved one and the petitioner would be entitled to get reimbursement provided by the Government not by the 3rd respondent Insurance Company, in view of the expressed terms of agreement between the parties.

8. However, the learned Additional Government Pleader for the official respondents would contend that though the reason of non inclusion of the hospitals in the approved list of hospitals may not be a sustainable one, in view of the number of decisions of this Court, the other reason cited by the 1st respondent that the disease for which treatment taken by the petitioner, since not included in the scheme, the petitioner would not be entitled to get reimbursement, as there is no scope for having spent the expenses and thereafter, claim the same from the Government, as the very scheme is only for cashless treatment. In that view of the matter, the order passed by the 1st respondent is sustainable, he contended.

9. This Court have considered the rival submissions made by the parties and the earlier decisions of this Court reported in 2010(2) LW 90 in the matter of *Star Health and Allied Insurance Company Limited v. A.Chokkar and others* and also yet another judgment of this Court in *W.A.(MD) No.859/2013* in the matter of *State of Tamil Nadu v. Mary Thilagavathi and another*.

10. As has been discussed above, the reasons cited by the 1st respondent in the impugned order are either non-est or cannot be considered as valid reasons for the rejection of the claim of the petitioner for medical reimbursement, hence, this Court is of the considered view that the impugned order is unsustainable and is liable to be quashed. Accordingly, the impugned order is quashed and the matter is remitted back to the 1st respondent for reconsideration and while doing reconsideration, the 1st respondent, without giving the same reasons, has to explore the possibility of granting the reimbursement to the petitioner either under the Scheme or on the basis of the agreement entered into between the Government and the third respondent, as admittedly, <https://hcdirects.courtsofmadras.gov.in/services/> has undertaken the treatment of a major surgery, for which, the medical reimbursement cannot be refused or rejected by the respondents.



11. With these observations, the writ petition is disposed of. The needful shall be done by the respondents within a period of 12 weeks from the date of receipt of a copy of this order. No costs. Consequently connected Miscellaneous Petition is closed.

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Sd/-

Assistant Registrar(RTI)

/True Copy/

Sub Assistant Registrar(CS)
Madurai Bench of Madras High Court,
Madurai-23.

To

1.The Additional Director,
Tamil Nadu Health Scheme,
Directorate of Medical and
Rural Health Service Campus,
New Building 2nd floor, Teynampet, Chennai.

2.The District Collector
Madurai District, Madurai.

+1cc to M/s.J.Mathesh, Advocate in SR.80311
+1cc to M/s.T.Antony Arul Raj, Advocate in SR.80577
+1cc to the Special Government Pleader, in SR.80497

W.P.(MD) No.9761 of 2013 and
M.P.No.1 of 2013
09.12.2016

rr.

PBK/GSV-PM/SAR-III 14/12/2016 ::4P-6C:(IT)