

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CWP No.15528 of 2015
Date of decision: 12.01.2016**

Vijay Kumar

....Petitioner

Versus

State of Haryana and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Ajay Chaudhary, Advocate
for the petitioner.

Mr. Samarvir Singh, DAG, Haryana.

RITU BAHRI J. (Oral)

The petitioner has filed this writ petition for quashing the impugned order dated 22.07.2015 (Annexure P-9), passed by respondent No.4 by which he has ordered the recovery of Rs.1,68,000/-, which the petitioner has received as medical reimbursement.

The petitioner is a JBT Teacher and is still working as a JBT Teacher in Government Girls Primary School, village Tohana Khera, Teshil Narwana, District Jind. The petitioner remained ill and diagnose his disease and thereafter he got admitted in Jindal Institute of Medical Sciences, Hisar and remained admitted there as indoor patient from 18.09.2014 to

19.09.2014. The petitioner was diagnosed with a disease called Hepatitis-C, Genatype-III, which was prescribed as a chronic disease by the Government of Haryana vide letter No.2/160/89-I-HB-III dated 11.08.1992 and No.21640/2003-HB-II dated 08.06.2005, which falls at Sr. No.11, and accordingly his treatment was started. Thereafter again on 06.10.2014 to 07.10.2014, the petitioner was got admitted and along with different medicines an injection, namely, Exxura (180 mg) was prescribed to him once in a week. The discharge card of the petitioner is annexed as Annexures P-1 and P-2. A Chronic Disease Certificate dated 19.11.2014 (Annexure P-3) was issued to the petitioner by Medical Officer.

As per the instructions dated 28.05.2003 (Annexure P-5), an employee who is suffering from chronic diseases is entitled to reimburse all the expenses incurred as outdoor patient. After completion all the formalities, the petitioner submitted his medical bills as Annexure P-6, collectively and they were sanctioned vide order dated 04.02.2015 (Annexure P-7).

The District Elementary Officer, Jind, vide letter dated 13.07.2015 gave directions to respondent No.4, for recovery of all the excess amount from the petitioner towards follow-up treatment as the same were not reimbursable. Thereafter, vide order dated 22.07.2015 (Annexure P-9), respondent No.4 passed the order for recovery of the amount of Rs.1,68,000/- from the petitioner within

a period of three days.

Upon notice issued in the present petition, a written statement dated 18.12.2015, has been filed by respondents No.2 to 4. Reference has been made to Review of Reimbursement Policy (Annexure R-1), where as per Condition No.6, only medicines for a period of seven days after discharge from the hospital are allowed to be reimbursed. As per the instructions dated 11.08.1992 issued by Health Department, Haryana Government, persons claiming reimbursement on chronic diseases will not be entitled to any other medical allowances whether at fixed rate or at the rate of Rs.100/- per month as outdoor patient. Reimbursement cannot be claimed for chronic diseases for more than Rs.500/- per month. The petitioner had given an affidavit dated 19.03.2014 to respondent No.4 that the amount of Rs.1,69,956/- falls under indoor treatment. If the above bill/treatment become outdoor, then the petitioner will deposit all the amount i.e. Rs.1,69,956/- in the department. Keeping in view the affidavit of the petitioner, the amount of Rs.1,69,956/- was released to the petitioner.

Thereafter, respondent No.4 on 09.04.2015, sent the case to the Block Education Officer, Uchana (Jind) regarding the medical bill amounting to Rs.1,69,956/- being suspicious because the amount of Rs.1,68,000/- cannot be spent on indoor treatment. The petitioner had purchased 24 IPFS EXXURA 180 MCG Injections in advance from Imperial Health care Private Limited,

Hisar, vide Invoice No.3611 dated 07.10.2014 amounting to Rs.1,68,000/- without prescription of any doctor. Hence, the amount of Rs.1,68,000/- were not reimbursable to the petitioner. However, in the written statement, it is admitted that as per advice of the doctor, the medicines were to be given to the petitioner once a week.

In the present case, it is not in dispute that the petitioner was suffering from the diseases which were falling under the definition of Chronic Diseases as per Chronic Disease Certificate dated 19.11.2014 (Annexure P-3) issued by Medical Officer. The question for payment of follow-up treatment of chronic diseases has come up for consideration before this Court in number of cases.

Reference can be made to a judgment passed by this Court in case ***“Krishna Kumari vs State of Haryana”***, 1999(4) **RSJ 386**, wherein the reimbursement of two medical bills of the petitioner's son was declined on the ground that the expenses had been incurred while he was an outdoor patient. The writ petition was allowed by observing that the outdoor treatment was a follow-up and an integral part of the indoor treatment and it must be reimbursed as indoor treatment. There was a close connection between the indoor and outdoor treatment given to petitioner's son and it was not possible to separate the two.

In a Division Bench judgment passed by this Court in

case “***Sunita Rani vs Union of India and others***”, 2008(3) SCT 275, wherein reimbursement of post heart surgery medical expenses were denied after death of husband of the petitioner, writ petition was allowed by holding that the benefit being given during life time of petitioner's husband cannot be denied after his death. Follow-up treatment being integral part of indoor treatment expenses incurred on outdoor treatment must be reimbursed as indoor treatment. In Paragraph 5 of the said judgment, it was observed as under:-

*“5. In the case of **Ravi Kant vs The State of Haryana and others**”, 1998(4) SCT 206: 1998(3) RSJ 705, wherein similar controversy i.e. as to whether after kidney transplant of an employee/dependent, he/she is entitled to reimbursement of medical expenses incurred for post operative medical treatment, came up for consideration, a Division Bench of this Court observed as under:-*

“It has been submitted that only a person who receives treatment as an indoor patient, is entitled to be reimbursed, may be that he is in receipt of fixed medical allowance as per the medical reimbursement rules as applicable to him. It has been submitted that as the petitioner is alleged to have taken treatment as an outdoor patient, he cannot claim reimbursement. It is true that the petitioner will not be entitled to reimbursement for this treatment if we go by the strict definition of 'indoor and outdoor patient', the petitioner will not be an indoor patient. Fixed medical allowance to the tune of Rs.100/- is meant to compensate the employee/his family only for the

treatment of casual diseases. Intention behind the provision of providing fixed medical allowances does not seem to be that employee/his family should not be compensated for such diseases which can prove fatal if consistency in treatment is not observed. It would bear repetition that petitioner is constantly taking medicines he is on medicines, he has to take medicines daily. If he does not take medicines daily, his remaining alive will be seriously in danger. When he is constantly under treatment and treatment is indispensable for him, it has to be viewed as if he is receiving that treatment in the hospital.”

In the case of ***“Kundan Lal vs Haryana Vidyut Parasaran Nigam Limited and another”***, 2009(3) RSJ 727, the petitioner underwent a composite treatment of surgery followed by Radiotherapy and then Chemotherapy. The medical expenses with regard to indoor treatment which included the bills of surgery as well as Radiotherapy were reimbursed. The claim made by the petitioner regarding the expenses incurred on the treatment of Chemotherapy was rejected on the ground that the Chemotherapy is a treatment administered in the OPD. The Division Bench of this Court allowed the writ petition by observing that the treatment of the disease, namely, *Carcinoma Splenic Flexure* has to be treated under a composite scheme which commenced with the surgery and then, Radiotherapy followed by Chemotherapy. Neither of these can be separated from each other as all the three

dovetail each other although the treatment of Chemotherapy is given outdoor and therefore, merely on that basis the claim made by the petitioner could not have been rejected.

So, in view of the ratio laid down in the aforesaid judgments, this Court is of the considered opinion that for chronic diseases, the expenditure incurred as an outdoor patient has to be reimbursed.

Keeping in view the above facts and circumstances, the present petition is allowed and the order dated 22.07.2015 (Annexure P-9), is hereby set-aside.

(RITU BAHRI)
JUDGE

12.01.2016
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