

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

Sr. No. 204

CWP-23710-2012

Decided on : 29.03.2016

Kashmiri Lal Mittal

..... Petitioner

VERSUS

State of Haryana and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

To be referred to Reporters or not?

Whether the judgment should be reported in the digest?

Present: Mr.Sandeep Panwar, Advocate, for the petitioner.

Mr.Harish Rathee, Senior DAG, Haryana.

DEEPAK SIBAL, J.

Through the present petition, the petitioner seeks quashing of orders dated 05.04.2011 (Annexures P-13 to P-15), passed by the Executive Engineer, BML Water Services Division, Kaithal, through which his request for grant of medical reimbursement for the treatment of his mother, has been rejected. The petitioner further prays for issuance of a direction to the respondents to reimburse the medical expenses incurred by him on the treatment of his mother for the periods from 14.07.2010 to 31.07.2010, 01.08.2010 to 31.08.2010 and 01.09.2010 to 30.09.2010.

After having heard learned counsel for the parties and perusing the record with their able assistance, the relevant facts which have emerged, are that the petitioner is a retired Sub Divisional Officer

from the Irrigation Department, Haryana. The petitioner's mother, who was dependent on him, had undergone treatment for chronic renal failure for a long time including the period for which the claim is made through the present petition. However, the medical reimbursement for the afore-referred treatment was disbursed by the respondents only from 01.10.2010 onwards as it was from that date when a panel of doctors of which the Civil Surgeon, Hisar, was the chairman, had certified that the petitioner's mother was suffering from chronic renal failure. The petitioner's representation, seeking reimbursement of medical expenses for his mother's treatment from 14.07.2010 till 30.09.2010 was considered and rejected vide the orders impugned in the present petition, giving the petitioner a cause to approach this Court through the present petition.

The applicable policy/instructions dated 11.08.1992 pertaining to medical reimbursement provide for reimbursement of medical expenses incurred for chronic diseases. Once the disease being suffered by the petitioner's mother had been certified to be a chronic disease, then it does not lie in the mouth of the respondents to reimburse the medical expenses for only those amounts which have been incurred after the issuance of the certificate especially when they do not dispute that the medical expenses incurred by the petitioner on his mother's treatment prior to the issuance of the certificate i.e. from 14.07.2010 to 30.09.2010 were for the same disease which was certified to be a chronic disease through certificate dated 01.10.2010. Such a narrow construction of a benevolent policy cannot and should not be permitted especially

when the policy pertains to reimbursement of expenses incurred to save a human life.

The aforesaid view of mine finds support from a judgment of this Court in CWP-15674-2008 “Om Parkash Kashyap (since deceased) through his LRs Vs. State of Haryana and others”, decided on 31.01.2011, wherein it has been held as under: -

“There is no denial to the fact that the condition of the petitioner would fall in the chronic disease, as has been certified by the C.M.O. also, but to say that the medical reimbursement shall be made only for the treatment which has ensued the issuance of such a certificate, is totally arbitrary, for the simple reason that the issuance of a certificate is a mere acknowledgment of the existing condition of the petitioner's problem which condition existed prior thereto and for which the petitioner had been taking the treatment.

Therefore, to say that the because the certificate has been issued on a particular date, the medical reimbursement for the treatment shall be regonised only after the issuance of such certificate, would be wholly unjustified. What is to be seen by the authorities is that a certificate acknowledges the veracity of the chronic illness of the incumbent only, but it cannot be said that the expenses for the treatment which commenced earlier, would not be reimbursed. A person afflicted with serious ailment, cannot be expected to wait for the certificate of the C.M.O. and commence the treatment thereafter.

Thus, the stand of the respondents is highly arbitrary and unjustified. Consequently, I am of the opinion that the writ petition deserved to be allowed and the petitioner is held entitled to the reimbursement of entire amount which has been claimed by him in the writ petition and which has been submitted to the respondents. The needful be done within a period of three months from the date of receipt of a copy of the order and the amount shall be paid to the petitioner.”

In view of the above, the present petition is allowed, the impugned orders dated 05.04.2011 (Annexures P-13 to P-15), passed by the Executive Engineer, BML Water Services Division, Kaithal, are set aside and the petitioner is held entitled to reimbursement of the entire amount incurred by him on his mother's treatment for chronic renal failure from 14.07.2010 to 31.07.2010, 01.08.2010 to 31.08.2010 and 01.09.2010 to 30.09.2010.

The needful be done within three months from the receipt of
a certified copy of this order.

29.03.2016
shamsher

[DEEPAK SIBAL]
JUDGE