

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

CWP No.23743 of 2015 (O&M)

Date of decision: 21.03.2016

Ramesh Kumar

.....Petitioner

Versus

State of Haryana and others

.....Respondents

CORAM:HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. P.K. Chugh, Advocate,
for the petitioner.

Mr. Keshav Gupta, AAG, Haryana,
for the respondents.

Ritu Bahri, J.

The petitioner is seeking a writ of certiorari for quashing the letters dated 09.07.2014 and 01.09.2014 (Annexures P-9 and P-10), whereby his claim for medical reimbursement has been rejected.

The petitioner is working as Junior Engineer with the respondent-department. Both the kidneys of the petitioner got damaged and he is surviving on only one kidney donated by his wife. He started his treatment in Apollo Hospital, which was approved by the Government of Haryana. As per Haryana Government letter dated 02.05.2011 (Annexure P-1), Apollo Hospital, Delhi was in the list of approved hospital for the next two years. Subsequently, as per letter dated 24.06.2013 (Annexure P-2), the name of Apollo Hospital was not included in the list of approved hospitals. The medical reimbursement bills of the petitioner, which he had submitted

before issuance of letter/instructions dated 24.06.2013 (Annexure P-2) were reimbursed. However, the bills pertaining to the period from September, 2013 to January, 2014, were returned back to the petitioner vide letters (Annexures P-4 and P-5) informing him that approval of Indraprasth Apollo Hospital, New Delhi had expired on 02.05.2013 and the outdoor treatment was not admissible. Thereafter, the matter was taken up by the petitioner with the Health Department and on the advise of the Additional Chief Secretary, Health Department, sought approval for grant of relaxation in the policy framed for reimbursement of medical bills vide letter dated 19.06.2014 (Annexure P-8). Finally, the case of the petitioner for medical reimbursement was returned back by respondent No.2 to respondent No.3 vide letter dated 09.07.2014 (Annexure P-9), informing that as per instructions dated 02.05.2011, the approval of Apollo Hospital had expired on 02.05.2013 and the said hospital was not empanelled. This information was received by the petitioner vide letter dated 01.09.2014 (Annexure P-10).

The petitioner is seeking the benefit of reimbursement by referring to the instructions dated 24.06.2013 issued by the Government, whereby the Chief Minister and Finance Department have power for relaxation in exceptional cases, where there is life threatening disease or in case of emergency.

Upon notice, written statement has been filed by respondent Nos. 1 to 4, wherein it has been stated that the Apollo Hospital, New Delhi was approved by the Haryana Government as per instructions dated 02.05.2011 (Annexure R-1). Kidney transplantation of the petitioner took place on 27.09.2012. However, by that time, the approval of said hospital had expired on 02.05.2011 and as per instructions dated 24.06.2013 (Annexure

approved hospitals of the State of Haryana. Hence, the medical bills submitted after 24.06.2013 could not be reimbursed as per instructions dated 13.10.2014 (Annexure R-3).

In the present case, as per policy dated 02.05.2011 (Annexure P-1 and Annexure R-1) issued by the Government of Haryana, there were 15 hospitals, which had been empanelled in addition to the already empanelled hospitals from where treatment was to be taken, subject to other provisions of the policy. The already empanelled hospitals as well as newly listed hospitals would remain empanelled for a period of two years at a time, which could be renewed further by the Government keeping in view the performance and track record of the hospital. There was a provision for relaxation in exceptional cases with the prior approval of the Hon'ble Chief Minister and the Finance Department. Such relaxation was to be granted in the treatment of very old person, highly sensitive nature of diseases involving multi-system disorder and treatments taken in life threatening emergency situation etc. Justification for such expenditure was to be obtained from a Committee of Experts headed by DGHS and two subject specialists posted in Panchkula or PGIMS, Rohtak. The Apollo Hospital, New Delhi was in the approved empanellment of State of Haryana for reimbursement of bills w.e.f. 02.05.2011 to 02.05.2013. However, subsequently, vide instructions dated 24.06.2013 (Annexure P-2), this hospital was not in the list of empanelled hospitals for reimbursement as per instructions issued by the Chief Secretary, Government of Haryana. In both the instructions (Annexures P-1 and P-2), there was a provision of relaxation in the policy, which was to be granted in exceptional circumstances.

The question for consideration in this case would be, “whether

after getting kidney transplantation on 27.09.2012, the petitioner could be

denied reimbursement of medical bills for the period from September, 2013 to January, 2014, simply on the ground that this hospital was no longer in the list of approved hospitals for reimbursement.

It is not the case of the respondents that the petitioner was not suffering from life threatening disease and his kidney was not transplanted. The medical bills, submitted by the petitioner, have been denied simply on the ground that approval of Indraprasth Apollo Hospital had expired on 02.05.2013. At this stage, reference can be made to a judgment passed by this Court in Vijay Kumar Vs. State of Haryana and others, CWP No.15528 of 2015 (decided on 12.01.2016), wherein the petitioner, who was a JBT Teacher, had been diagnosed with Hepatitis-C, Genatype-III, which was a chronic disease and accordingly, his medical bills were reimbursed. However, follow up treatment being an outdoor patient was not reimbursed on the ground that as per the policy, he could not claim more than Rs.500/- per month. The claim for outdoor treatment was allowed by following the decisions given by this Court in Krishna Kumari Vs. State of Haryana, 1999 (4) RSJ 386, wherein it was held that the outdoor treatment was a follow up and an integral part of the indoor treatment and it was to be reimbursed as indoor treatment.

A Division Bench of this Court in Shakuntla Vs. State of Haryana, 2004 (1) SLR 563, had allowed medical reimbursement to the petitioner, where the treatment was got from a hospital other than the approved hospital being a case of emergency. The petitioner, in that case, had suffered a clear kidney failure problem. After being examined in AIIMS, New Delhi, he was advised early transplantation. As the waiting list for surgery at AIIMS was about six months, the patient got himself admitted

times. After getting a donor, his operation was carried out. Thereafter, he was discharged and was required to visit the said hospital for post operative check-up. His case for medical reimbursement was declined on the ground that Sir Ganga Ram Hospital was not a recognized hospital. While making reference to a decision given by the Hon'ble Supreme Court in **Surjit Singh Vs. State of Punjab**, 1996 (1) RSJ 845, the Division Bench of this Court held that if, life of a human being is at stake, it would be too technical to require such a person to hunt for a list of the approved hospitals and then decide which hospital to go to. Such procedure should not be expected to be followed in an emergency by the attendant of the patient. If such regulations were applied so strictly, the end result would be disastrous and in that situation the patient might die. In normal circumstances, the procedures prescribed should be followed, but the said procedure should not be made so cumbersome that one may get frustrated in adhering to such procedures. Emergency knows no law and no procedures. Ultimately, the writ petition was allowed.

In the facts of the present case, the petitioner got his kidney transplanted from Apollo Hospital, New Delhi on 27.09.2012 and on that date, this hospital was in the approved list of hospitals for reimbursement as per policy (Annexure P-1). Thereafter, the follow up treatment of this disease continued. However, his claim has been rejected on a technical ground that this hospital was not listed in the approved list dated 24.06.2013 (Annexure R-2). Since continuation of treatment after kidney transplantation was closely related to his disease, this was a fit case where the respondent-department should have exercised its power of relaxation and reimbursed the bills to the petitioner. Kidney transplantation would fall

instead of getting any opinion from the experts, has simply rejected the claim of the petitioner on the ground that Apollo Hospital was not listed in the approved list of hospitals. Since the earlier bills with respect of the said hospital, had been reimbursed as at that time it was in the approved list of hospitals, the follow up treatment should have been reimbursed by exercising the power of relaxation as per Annexures P-1 and P-2.

Resultantly, letters dated 09.07.2014 and 01.09.2014 (Annexure P-9 and P-10) are set aside and a direction is given to the respondents to reimburse the entire medical bills of the petitioner, within a period of four weeks from the date of receipt of certified copy of this order and compliance report thereof, be sent to this Court.

Allowed accordingly.

21.03.2016
ajp

(RITU BAHRI)
JUDGE