

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

CWP No.25244 of 2014 (O&M)

Date of decision: 02.05.2016

Fateh Chand Jindal

...Petitioner

versus

State of Haryana & others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Shailendra Sharma, Advocate,
for the petitioner.

Mr. Rajesh Gaur, Addl. A.G., Haryan.

RITU BAHRI, J.

The petitioner is seeking quashing of the letter dated 01.09.2014 (Annexure P-5), whereby his claim for medical reimbursement has been declined on the ground that acute pancreatitis is not an emergency.

The petitioner has retired as Head Draftsman from the office of respondent No.2 on 29.02.1996 after attaining the age of superannuation. He is suffering from the problem of Pancreas, due to which, he has to undergo treatment as and when the problem aggravates. In the year 2011, he suffered acute Pancreas problem and had to be hospitalized.

Vide letter dated 21.03.2012 (Annexure P-1), Civil Surgeon, Panchkula has certified that the petitioner had been examined by the constituted committee of General Hospital, Panchkula and as per report of the Surgeon, "Acute Pancreatitis was a justified emergency." On the basis of this report, the medical reimbursement bills of the petitioner were reimbursed.

The petitioner had been hospitalized earlier for the same disease and

keeping in view his frail health, surgery was not conducted by the doctors.

Thereafter, on 15.06.2014, the petitioner again suffered problem and was taken to nearest hospital i.e. Raffels Hospital, Sector 14, Panchkula, where he remained admitted from 15.06.2014 to 07.07.2014. Keeping in view his frail health, surgery was not conducted by the doctors. However, the petitioner spent a sum of Rs.3,59,552/- on his treatment. Thereafter, he submitted his medical reimbursement claim in the office of respondent No.2 along with all necessary documents. Vide letter dated 04.08.2014 (Annexure P-4) , the petitioner was informed that his medical reimbursement bills were submitted to Civil Surgeon for getting the emergency certificate. But, the Civil Surgeon, vide his letter dated 25.07.2014, demanded certain more documents, including details of treatment for whole month at Hospital. Thereafter, the petitioner re-submitted his bills as per requirement of the respondents. However, vide letter dated 01.09.2014 (Annexure P-5) sent by respondent No.3 to respondent No.2, it was communicated that the case of the petitioner does not fall under the category of EMERGENCY TREATMENT. It was further stated that the treatment record and bills of the petitioner were thoroughly examined by the constituted committee of Medical Borad, Panchkula and the reports of the Specialist Surgeon is as under:-

“Acute Pancreatitis is Not An Emergency” and the said conclusion was drawn by the Medical Borad based on BP, Pulse, Consciousness, Chest & CVC findings, as well as Bio-Chemistry, Hematology and Electrolysis reports every finding were normal, pertained to the date of admission of Patient/Petitioner i.e. 15.06.2014.”

At the time of issuing notice of motion on 10.12.2014, keeping in view that the petitioner was about 75 years of age and had been taken for treatment on account of acute Pancreatitis to the nearest hospital, which was

not an approved hospital by the Government of Haryana, respondent No.3 was directed to consider his case for relaxation as per Haryana Government Policy dated 2/3.05.2011.

In compliance of the above said order, an affidavit has been filed by the Engineer-in-Chief, Public Health Engineering Department, Panchkula, stating that as per Policy dated 02.05.2011 (Annexure R-1), ordinarily no relaxation from the policy is to be given. However, in exceptional cases with prior approval of the Hon'ble Chief Minister and Finance Department, such relaxation can be granted for treatment of a very old person, highly sensitive nature of diseases involving multisystem disorder and treatment taken in life threatening emergency situation etc.

In a separate written statement filed by Civil Surgeon, Panchkula, on behalf of respondent No.3, it has been stated that the information given by the Board of Doctors (Annexure P-5) does not call for any interference and the case of the petitioner is not covered by the policy dated 02.05.2011 (Annexure R-1). The said conclusion drawn by the Medical Board was based on Blood Pressure, Pulse rate and chest, which were normal when he was admitted in hospital on 05.06.2014.

The question for consideration in this petition would be as to 'whether after accepting Acute Pancreatitis as a case of emergency vide Annexure P-1, can the same authority i.e. Civil Surgeon, form a different opinion qua the same patient."

The petitioner, after having retired as Head Draftsman on 29.02.1996, is now 75 years old. Vide letter dated 21.03.2012 (Annexure P-1), respondent No.3 had informed respondent No.2 that Acute Pancreatitis was a justified emergency and thus, he approved the payment of medical

reimbursement bills of the petitioner. After having reimbursed his medical bills by treating the case to be of emergency vide Annexure P-1, the claim of the petitioner could not be denied solely on the ground his BP, Pulse rate etc. Were normal. The respondents, at the same time, have not disputed the fact that the petitioner, who was suffering from the aforesaid disease, had been admitted in an unapproved hospital for treatment. A perusal of Annexure P-2 shows that the petitioner had been admitted with acute pain abdomen, nausea. This fact is further elaborated in the discharge summary dated 07.07.2014. Once, the respondents have accepted the case of Acute Pancreatitis as a case of emergency, they cannot now refuse to give a certificate by not treating Acute Pancreatitis as a case of emergency vide Annexure P-5. Keeping in view the age of the petitioner, his case as per Policy (Annexure R-1), was fit for grant of relaxation, especially when no surgery was performed on him on both the earlier occasions in 2012 and 2014.

In view of the above, the impugned letter dated 01.09.2014 (Annexure P-5) is set aside and a direction is given to the respondents to reimburse the medical bills of the petitioner as per reimbursement policy.

Petition stands allowed with costs of Rs.10,000/-.

02.05.2016
ajp

(RITU BAHRI)
JUDGE