

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No. 9839 of 2015

Date of Decision: 12.12.2016

GURCHARAN SINGH

... PETITIONER

VS.

STATE OF HARYANA AND OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present: Mr. Narender Pal Bhardwaj, Advocate,
for the petitioner.

Mr. Ravi Partap Singh, AAG, Haryana.

KULDIP SINGH, J. (Oral)

The petitioner has preferred the present writ petition under Articles 226/227 of the Constitution of India for issuance of writ of mandamus directing the respondents to reimburse the medical expenses of ₹50,464.31 alongwith interest. The petitioner also sought a direction to the respondents to pay the pecuniary recurring loss of ₹ 500/- per month incurred till date as a result of stoppage of fixed medical allowance (FMA) w.e.f. 03.09.2014.

Brief facts of this case are that the petitioner who is a retired employee of the Local Audit Department, Government of Haryana, was getting Fixed Medical Allowance (FMA) of ₹500/- per month. On 11.08.2014, he paid a sum of ₹50,464.31 to the Fortis Hospital for conducting certain tests. The final report of the said tests came on 25.08.2014 vide which the disease of Hepatitis C was detected. The petitioner has filed an application dated 25.08.2014 (*Annexure P-7*), addressed to the Director, Local Audit

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Department, Government of Haryana requesting for change of option from FMA to open reimbursement policy which was allowed.

It comes out that on 05.09.2014, the Medical Board vide certificate (*Annexure P-9*) found that the petitioner is suffering from Hepatitis-C which is a chronic disease. The Director, Local Audit Department, Haryana vide its letter dated 14.10.2014 (*Annexure P-12*) has allowed the change of option of fixed medical allowance to open medical reimbursement policy w.e.f. 05.09.2014.

The short question pressed before this Court is that whether the petitioner is entitled to reimbursement of medical bills dated 11.08.2014 which is prior to 05.09.2014, the date from which he was allowed to change the option of fixed medical allowance to open medical reimbursement policy or not?

On the other hand, the State has taken the stand that the he can claim only after the date of change of option to open medical reimbursement policy i.e. 05.09.2014 and not before that.

I have heard learned counsel for both the parties and carefully gone through the file.

Admittedly, the petitioner had paid a sum of ₹ 50,464.31 to the Fortis Hospital on 11.08.2014 which is claimed to be in advance payment towards certain tests. He applied for change of option from fixed medical allowance to open medical reimbursement policy on 25.08.2014 and the same was allowed w.e.f. 05.09.2014. There are no instructions of the Government of Haryana which allows the petitioner to claim medical reimbursement under the

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open medical reimbursement policy even before the date of change of option from fixed medical allowance to open medical reimbursement policy.

The learned counsel for the petitioner has relied upon the authority of this Court passed in CWP No. 18269 of 1995 dated 24.05.1999 titled as *Santosh Phogat Vs. State of Haryana*; **1999 (4) SCT 478**, wherein it was held that MRI tests by the AIIMS, New Delhi, was integral and inseparable part of the treatment that the petitioner has received in PGIMER, Chandigarh as indoor patient. In the present case, the petitioner has paid a sum of ₹ 50,464.31 at Fortis Hospital and claims that same is only for conducting certain tests and not for the treatment. That would mean that the entire amount of ₹ 50,464.31, which were given in advance to the Fortis Hospital, has not been spent as expenses for the tests only. Since, only certain tests were conducted and no treatment was given in pursuance to the said payment, therefore, the petitioner was entitled to get back his advance money from Fortis Hospital after deduction of the charges incurred on the test conducted. Hence, the said authority is not applicable in the instant case.

In view of the foregoing discussion, the present writ petition is dismissed.

December 12, 2016

Suresh Kumar

**[KULDIP SINGH]
JUDGE**

Whether speaking / reasoned

✓
Yes / No

Whether Reportable

✓
Yes / No

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