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

**RSA No.4821 of 2013 (O&M)
Date of decision: January 14, 2016**

The Commissioner and Secretary
and others

.....Appellants

Versus

Rajinder Singh

.....Respondent

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. R.P. Singh, AAG Haryana.

Mr. Rajesh Arora, Advocate
for the respondent.

SABINA, J

Respondent had filed suit for declaration and mandatory injunction seeking a direction that he was entitled for reimbursement of full medical claim qua treatment of his wife.

The case of the respondent, in brief, was that he had retired from the post of Development Officer and was entitled for medical reimbursement of medical expenses incurred on treatment of his wife. On 05.04.2008, wife of the respondent fell seriously ill and was got admitted in Umkal Hospital. She remained admitted in the said Hospital from 05.04.2008 to 08.04.2008. On 11.04.2008, wife of the respondent was again admitted in the said Hospital and was advised to be shifted to Holy Family Hospital, Delhi, where, she remained admitted from 12.04.2008 to 21.04.2008. The

treatment of the wife of the respondent was taken in a case of emergency and the respondent had spent ₹1,13,142/- on the treatment of his wife.

Appellants-defendants in their written statement averred that the respondent was only entitled to claim reimbursement as per the prescribed rates by Post Graduate Institute ('PGI' for short), Chandigarh/All India Institute of Medical Sciences ('AIIMS' for short), Delhi. Respondent was offered cheque in the sum of ₹60,877/-, but he had not accepted the same.

On the pleadings of the parties, following issues were framed by the trial Court:-

- “1. Whether the plaintiff is entitled to a decree for mandatory injunction to the effect that he is entitled to reimbursement of full medical bill qua treatment of his wife?OPP
2. Whether the plaintiff is entitled to relief of mandatory injunction as prayed for?OPP
3. Relief.”

Parties led their evidence in support of their respective pleas.

Trial Court vide judgment/decreed dated 10.02.2012 partly decreed the suit of the respondent-plaintiff. The said judgment/decreed passed by the trial Court were upheld by the First Appellate Court vide judgment/decreed dated 23.04.2013 in an appeal filed by the appellants-defendants. Hence, the present appeal by the appellants-defendants.

I have heard learned counsel for the appellants and

have gone through the record available on the file carefully.

In the present case, the fact that the wife of the respondent took treatment from Umkal Hospital and Holy Family Hospital, Delhi in question is not in dispute. The only question that requires consideration is as to whether the respondent was entitled to claim full medical reimbursement qua the amount spent by him or he was entitled to receive reimbursement as per rates prescribed by PGI, Chandigarh/AIIMS, Delhi.

It has been held by this Court in *Shakuntla versus State of Haryana*, 2004(1) SLR 563, as under:-

“The cumulative effect while considering the claims of all the petitioners is that the individual cases of all the petitioners need to be dealt with expeditiously because at the time of meeting out the medical expenditures in the hospitals, the payment is raised by taking loans upon interest, by sale of jewellery or liquidating their movable or immovable assets including the Fixed Deposits, if any. Such acts sometimes involve the life time saving of an employee. Thus, the question of dealing with such kind of payments does leave a healthy impression with an employee. Generally speaking, the employer is expected to look after his employees though as per the terms and conditions spelt out in the terms of employment or the rules framed in respect thereof. Wherever the rules prescribe the reimbursement to be made to the employees, the unnecessary delays should be avoided. The facts spelt out in all these cases relate to such kind of delays and thereby the

petitioners have faced the unnecessary harassments. We are of the view that the impugned orders vide which the claims of the petitioners have been rejected are not sustainable under law, as the plea set up is that the hospitals are not recognized or are not contained in the list approved by the government, which does not stand the test of law. Thus, the case of all the petitioners deserve to be scrutinised in accordance with the rules and so also the Judge made law. Therefore, we grant a writ of certiorari and quash the impugned orders of rejection in respect of the claims of each of the petitioners which have been impugned before us and we also command the government by issuing a writ of mandamus that the cases of all the petitioners be dealt with in accordance with the rules and the Judge made law within a period of three months. It is clarified that the petitioners may substantiate their claims, if so required, with 15 days from the date of receipt of a certified copy of this judgment and that the aforestated period of three months shall in addition to 15 days and wherever the additional pleas or the additional documents are not required to be submitted, the aforestated period of 15 days shall not be available to either side. It is further directed that upon deciding the cases of the petitioners within the aforestated period, the payment due and payable to the petitioners shall be made within one month thereafter, failing which the Government shall be liable to pay interest at the rate of 12% per annum after the expiry of the period of one month as prescribed. The interest amount so payable shall be deducible from the salary of the officer(s) concerned and responsible

for dealing with and for not making the payment within the aforesated period and that the said amount shall not be reimbursible by the government under any head. It is clarified that for any such delay beyond the aforesated period the interest accrued thereon shall be paid by the government in the first instance and the deductions shall be made after the liability has been fastened by the concerned quarters."

Further, it has been held by this Court in ***State of Punjab versus Prem Kumar***, 2001(4) S.C.T. 404, as under:-

"It is a settled principle of law that in given circumstances a Government employee may be left with no option but to take treatment form a hospital, which is nearby in the case of emergency. If that be so, it will be totally unjust and unfair to deny the claim of reimbursement to the plaintiff merely because the hospital was not recognised by the State Government for treatment of its employees. Once it is established as a matter of fact that the plaintiff had met with an accident and, he received the treatment, then his claim for reimbursement cannot be denied on the ground put forward by the learned counsel for the State in regard to non-recognition of the hospital, which otherwise is a hospital of repute. The plaintiff had discharged his onus in this regard. A right to life would obviously include such a protection to the Government employee as emergency of the kind as indicated in the facts of the present case leaves the employee with no option but to take treatment in a nearby hospital, Resultantly, I see no reason to interfere in this findings arrived at by the learned Courts below."

Respondent had proved on record that he had taken treatment of his wife as it was a case of an emergency and emergency certificate was issued by the concerned Hospital. Since in the present case, the respondent had taken treatment of his wife as it was a case of an emergency, the Courts below had rightly ordered the reimbursement of the actual amount spent by the respondent on the treatment of his wife. During the course of arguments, it has further transpired that in execution proceedings, the due amount has been paid by the appellants to the respondent along with interest. Learned counsel for the respondent has submitted that the claim of the respondent stood fully satisfied.

In the facts and circumstances of the present case, no substantial question of law arises in this case warranting interference by this Court.

Dismissed.

**(SABINA)
JUDGE**

January 14, 2016
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