

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.733 of 2016

In
Civil Writ Jurisdiction Case No.6285 of 2014

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Vinod Kumar Singh, son of Sri Satya Narayan Singh, R/o New Colony
Pakari, P.S. Ara Nawada, District- Bhojpur, Ara.

... .. Appellant/s

Versus

1. The State of Bihar
2. The Principal Secretary, Department, Government of Bihar, Patna.
3. The Director-in-Chief, Health Services, Department of Health, Government of Bihar, Patna.
4. The Joint Secretary, Health Services, Department of Health, Government of Bihar, Patna.
5. The Secretary, Law (Judicial) Department, Government of Bihar, Patna.
6. The Joint Secretary-cum-Additional Legal Advisor, Department of Law, Government of Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Kumar Kaushik, Advocate
For the Respondent/s : Mr.

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 22-09-2017

Seeking exception to an order passed on 11.3.2016 in CWJC
No. 6285 of 2014, this appeal has been filed by the appellant under
Clause 10 of the Letters Patent.

2. In CWJC No. 6285 of 2014 challenge was made by the
writ petitioner, appellant herein to an order dated 5.2.2014 passed
by the Joint Secretary-cum-Additional Legal Advisor, in the
Department of Law, Government of Bihar, Patna, respondent No.6



rejecting a claim made by the appellant for medical reimbursement of Rs. 22,249.00 incurred by him in the treatment of his wife.

3. The appellant's wife, under emergency situation, was required to be admitted in a private nursing home on 21.9.2012 at 1.16 PM and she underwent Cesarean operation in which the expenses of the aforesaid amount was incurred. The appellant submitted a claim to the competent authority and the competent authority forwarded it to the Government for consideration. The Government having rejected the claim, the writ petition was filed and the writ petition has been dismissed on the ground that as per the policy the writ petitioner-appellant cannot take treatment in private hospital without approval of the Government and therefore the claim is not tenable.

4. However, learned counsel for the appellant has invited our attention to a circular issued by the State Government which was applicable at the relevant point of time being Circular No. 1182 (14) dated 2nd June, 2006, wherein a detailed procedure has been laid down for settlement of the claim. In Clause 3 of the said circular various provisions have been provided for examination and settlement of the claim and under sub-clause (ii) of Clause 3 of the aforesaid circular, it is indicated that with regard to the claim of Rs. 20,000/- and above, a three-member committee shall be



constituted at the instance of the Superintendent of Patna Medical College and Hospital and the question of taking treatment under emergency situation should have been examined by this Committee and based on the recommendation of the Committee, the claim has to be processed.

5. The grievance of the appellant is that the respondent No. 6 on his own without resorting to the procedure contemplated in the circular 2nd June, 2006 having rejected the claim, the same is unsustainable. The writ court having not adverted to consider this question, the appeal be allowed.

6. When the aforesaid circular was brought to our notice on 24.8.2017, learned counsel for the State was granted time to seek instructions and today the State Government has not filed any additional counter affidavit refuting the aforesaid claim.

7. The appeal/petition is pending consideration for more than three years since 2014 and we see no reason to adjourn the matter. We find that the respondent No. 6 has rejected the claim without following the procedure contemplated in the circular in question dated 2nd June, 2006, Annexure-A-1.

8. Normally this Court would have remanded the matter back for reconsideration as per the circular dated 2.6.2006 but now after a period of three years with respect to the claim for Rs. 22,249.00,



the question is as to whether the matter is to be relegated back to the competent authority. Perusal of the pleadings of the appellant in the writ petition from para-6 onwards indicate that in view of the emergency situation and to prevent the breach and miscarriage and further finding danger to the life of his wife, the appellant had no option but to admit her and get her immediately operated in emergency situation in the private hospital. The averments made in this regard in paras 6 to 8 have not been denied by the respondents. The respondents only say that the private hospital does not come within the list of approved hospital and therefore, the claim was rejected. They do not deny the fact that in case of emergency the same can be evaluated and the approval of a competent authority granted. The circular in question contemplates evaluation of the claim by an expert committee and based on the recommendation of the Committee, the Government or the competent authority is to take a decision. In this case without referring the matter to the Committee the Respondent No. 6 himself has decided the issue and he does not say that there was no case of emergency and the averment made by the appellant with regard to emergency is incorrect. So also, the materials available on record indicating that existence of emergency situation has not been refuted.



9. That being so, we see no reason now to remand the matter back for reconsideration. We find that it was a case where in view of the emergency situation the appellant has sought reimbursement of an amount of Rs. 22,249/- after his wife was treated in a private hospital and there being a situation of emergency, the appellant had admitted his wife in the hospital in question and get her treated there. We are satisfied that it was a case of emergency covered under the provisions in question and therefore now after so many years, it is not appropriate or feasible to refer the matter for consideration, instead, the order passed by the writ court and the impugned order dated 31st of January, 2014 passed by the Respondent No. 6 are quashed. The State Government is directed to pay the appellant entire amount of claim as made by him in the application.

10. The appeal stands allowed and disposed of.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

spandey/-

AFR/NAFR	NAFR
CAV DATE	NA
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