

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 1212 of 2013

Jitendra Singh Jangi S/o Lt Karam Singh Jangi Aged About 58 Years Deputy Superintendent Of Police Ajk/crime, Dist Rajnandgaon, Cg

---- Petitioner

Versus

1. State Of Chhattisgarh Through Secretary, Deptt Of Home (Police), Mahanadi Bhawan, Ps Rakhi, New Raipur, Dist Raipur, Cg
2. Director General Of Police Police Head Qtr, Civil Lines, Raipur, Dist Raipur, Cg
3. State Of C.G., Through Its Secretary, Health And Family Welfare Deptt, Mahanadi Bhawan, Ps Rakhi, New Raipur, Distt Raipur, Cg
4. Director Medical Education, Old Nurses Hostel, Dks Bhawan Compound, Raipur, Dist Raipur, Cg
5. State Of C.G. Through Its Secretary, Deptt Of Road And Transportation, Mahanadi Bhawan, Ps Rakhi, New Raipur, Distt Raipur, Cg
6. Commissioner, Transport Department, Pandari, Raipur (CG)

---- Respondents

For Petitioner	:	Shri Vaibhav Shukla, Advocate
For Respondent/State	:	Shri S.P. Kale, Dy. A.G.

S.B. Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

28/08/2017

Heard.

1. This petition has been filed by the petitioner aggrieved by rejection of his claim for medical reimbursement in connection with his treatment in a hospital at Nagpur, vide impugned order Annexure P/1.
2. The case of the petitioner is that while the petitioner was working as In-charge Flying Squad under Department of Road Transport, he suffered cerebral haemorrhage on 23.08.2009, he was immediately admitted in the

local hospital and local hospital upon examination of his medical condition, referred him for medical treatment, whereafter the petitioner was taken to Wockhardt Hospital, Nagpur and brain surgery was performed on 27.08.2009. The petitioner remained admitted and was finally discharged on 19.09.2009. The petitioner having incurred a total expenditure of Rs. 4,65,683.80, sought medical reimbursement of the same but the same was rejected by respondent by impugned order giving rise to this petition.

3. Learned counsel for the petitioner submits that the petitioner having suffered a brain haemorrhage, it was clearly a case of an emergency. He submits that the medical certificates, treatment and condition of the petitioner on the date he was admitted in the local hospitals are not disputed. Therefore, to hold that it was not a case of emergency, is perverse and contrary to undisputed medical record. He submits that as per the circular Annexure R/2, where there is a medical emergency, post facto sanction for reimbursement, is permissible. He places reliance upon the decision of the Supreme Court in the case of **Suman Rakheja Vs. State of Haryana and another**, (2004) 13 SCC 562. It was observed thus :

“4. Counsel for the appellant submitted that in similar case (Annexure P-4) i.e. by the order of the High Court of Punjab and Haryana in *Sant Prakash v. State of Haryana* where in an emergency case the patient had to be immediately admitted in hospital, the relief has been granted. In the present case also the appellant's husband had to be rushed to the private hospital because he had developed a paralytic stroke on the left side of the body, as there was blood clotting on the right side of the brain and therefore, was admitted in an emergency condition in the hospital. In the present case the discharge certificate also shows that the case was an emergency one. In *Sant Prakash* case the Division Bench held that the petitioner therein would be entitled to 100% medical expenses at the AIIMS rates and 75% of the expenditure in excess thereto.

5. In the result, in this appeal also, the appellant herein would be entitled to get the refund of the amount of 100% medical expenses at the AIIMS rates and 75% of the expenditure in excess thereto.”

4. On the other hand, learned Deputy Advocate General submits that though the petitioner had submitted his document, medical report, treatment papers, the same were examined by the authorities of the respondents and they formed an opinion that it was not a case of an emergency. Therefore, in such case where the treatment has been taken from a hospital other than the recognized hospital, medical reimbursement would not be permissible under the Rules.

5. Applicability of the Rules known as the Madhya Pradesh/ Chhattisgarh Civil Services (Medical Attendance) Rules, 1958, Annexure R/2 filed by respondent, at the time when the petitioner was admitted in the Hospital at Bhilai and thereafter referred him for treatment is not in dispute. The only issue which arises for consideration is whether it was a case of medical emergency or not.
6. According to case of the petitioner, he suffered cerebral haemorrhage. The discharge summary document Annexure P/2 prepared by the Hospital at Bhilai where the petitioner was initially admitted, is not in dispute
7. It was only after this report that the petitioner was taken to Nagpur and admitted in private hospital where he was operated upon. Document relating to treatment, operation submitted by the petitioner are beyond dispute. All those documents, unmistakably, show that the petitioner had suffered cerebral haemorrhage and he had also undergone surgical process of his brain for removal of clot. If this medical papers are not in dispute, it is very clear that there was an emergent situation. To say, even after the petitioner had suffered cerebral haemorrhage, yet it was not a case of emergency, is not supported by any material filed by the respondent. It appears that the case of the petitioner was not dealt with in a proper manner. Therefore, the impugned order cannot be sustained. The matter is remitted to the competent authority for consideration of reimbursement of the petitioner as per circular Annexure R/2 after due scrutiny of the bills of the petitioner. Taking into consideration that the petitioner has now retired, decision shall be taken within a period of 60 days and whatever amount is found reimbursable, shall be paid to the petitioner at the earliest. In the case of Suman Rakheja Vs. State of Haryana and another (supra), it was held -

“4. Counsel for the appellant submitted that in similar case (Annexure P-4) i.e. by the order of the High Court of Punjab and Haryana in Sant Prakash v. State of Haryana where in an emergency case the patient had to be immediately admitted in hospital, the relief has been granted. In the present case also the appellant's husband had to be rushed to the private hospital because he had developed a paralytic stroke on the left side of the body, as there was blood clotting

on the right side of the brain and therefore, was admitted in an emergency condition in the hospital. In the present case the discharge certificate also shows that the case was an emergency one. In Sant Prakash case the Division Bench held that the petitioner therein would be entitled to 100% medical expenses at the AIIMS rates and 75% of the expenditure in excess thereto.

5. In the result, in this appeal also, the appellant herein would be entitled to get the refund of the amount of 100% medical expenses at the AIIMS rates and 75% of the expenditure in excess thereto.”

8. The petition is accordingly allowed.

Sd/-
(Manindra Mohan Shrivastava)
Judge