

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21-08-2017

CORAM:

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.17672 of 2015

N.Elango

..

Petitioner

vs.

- 1.The Principal Secretary to Government,
Labour and Employment Department,
Secretariat,
Chennai-600 009.
- 2.Tamil Nadu State Marketing Corporation Ltd.,
(TASMAC), Represented by its Managing
Director, 4th Floor, CMDA Tower-II,
Gandhi Irwin Bridge Road,
Egmore,
Chennai-600 008.
- 3.The Senior Regional Manager,
Chennai Region,
Tamil Nadu State Marketing Corporation Ltd.,
(TASMAC),
LLA Buildings, 4th Floor,
735, Anna Salai,
Chennai-600 002.
- 4.The General Manager (Personnel Welfare)/
Dy. Commissioner of Labour,
(from Tamil Nadu Government Labour
Department – on Deputation),
Tamil Nadu State Marketing Corporation Ltd.,
(TASMAC),
Director, 4th Floor, CMDA Tower-II,
Gandhi Irwin Bridge Road,
Egmore,
Chennai-600 008.

5.The District Manager,
Chennai South District,
Tamil Nadu State Marketing Corporation Ltd.,
(TASMAC),
B-4, Ambattur Industrial Estate,
Ambattur,
Chennai-600 058.

.. Respondents

This Writ Petition is filed under Article 226 of the Constitution of India, praying for the issue of a Writ of Mandamus, directing the respondents to reimburse the medical expenses incurred by the petitioner for his wife surgery held on 23.8.2010 along with the interest.

For Petitioner : Mr.K.Balu

For Respondent-1 : Mr.K.Dhananjayan,
Special Government Pleader.

For Respondents-2to5: Mr.P.Arumugarajan

ORDER

The relief sought for in this writ petition is for a direction to direct the respondents to reimburse the medical expenses incurred by the petitioner for his wife's surgery held on 23.8.2010 along with the interest.

2. The writ petitioner is an employee of TASMAC and a member of the Medical Scheme of the respondents. The monthly contributions are deducted from the salary of the writ petitioner and therefore, the writ petitioner is eligible to claim medical reimbursement under this Scheme.

3. The wife of the writ petitioner was admitted in the hospital and had undergone a surgery and discharged thereafter. The writ petitioner filed an application, seeking medical reimbursement as per the Scheme on 7.10.2010. The application for medical reimbursement was recommended by the fifth respondent in proceedings dated 13.10.2010. In spite of that, no order has been passed granting reimbursement in favour of the writ petitioner.

4. The writ petitioner submitted a representation on 11.2.2011 and reminders on 25.2.2011 and on 23.2.2012 respectively. However, no decision has been taken in this regard and the writ petitioner is constrained to move this writ petition under Article 226 of the Constitution of India.

5. Right to life is a fundamental right enshrined in Article 21 of the Constitution of India. The Hon'ble Supreme Court of India, time and again, reiterated and emphasised that the right to life cannot be interpreted as a mere animal life and it is decent life which is to be ensured. Enlarging the scope of Article 21 of the Constitution of India, the Hon'ble Supreme Court went one step ahead and held that, providing medical facilities by the State is also to be included in right to life, thus, the medical facility to be extended to all the citizens of this great nation is also a right to life enshrined under the Constitution. The case on hand

is to be considered in this perspective.

6. When the Courts have repeatedly held that the medical reimbursement is also included under Article 21 of the Constitution of India, denial of the same to be construed as violation of fundamental rights. Therefore, the Constitutional Courts cannot deal with the violation of the fundamental right of a citizen in a routine manner. Infringement of the statutory right is to be distinguished from the violation of the fundamental rights of the citizens. For instance, preventive detention would be treated as violation of right to life under Article 21 of the Constitution of India. The Courts have to rescue the citizens, who are put in violation of fundamental rights ensured.

7. The State in this regard should be a model employer and the insurance companies, as a State, also have a duty to deliver the schemes promptly. They cannot escape from the clutches of law on mere technicalities. This Court is aware that many countries in this world are settling the accident claims and medical insurance in advance soon after the persons are treated or met with an accident. Such a practice is not prevailing in our country for various reasons. But the constitutional goal is to achieve such a result and we should thrive towards achieving the same. This Court is of the opinion that any accident victim / medical victim has to be provided with immediate assistance by the State as well as by the insurance company. Contrarily, it is painful to observe that the

insurance company and the Government think that they are not liable, despite the fact that the huge amounts of premium are collected and millions of rupees are lying in the accounts of such insurance companies. When the insurance companies are not ready to settle the claim in favour of such victims, this Court is wondering in what manner, they are going to utilise this amount for the betterment of this great nation. This court is anxious to express its concern in this regard and it is for the authorities to think over and act promptly in such cases of medical reimbursement / accident victims.

8. No doubt, it is the duty of the respondents to find out the genuinity of the treatments undergone by the petitioner and undoubtedly, it is the duty of the writ petitioner to establish that he had undergone the medical treatments and suffered monetary loss. Once the genuinity of the medical treatments undergone is established, then it is the duty mandated on the part of both the insurance company as well as the Government to see that the claims are settled in time without any further delay.

9. In this view of the matter, the respondents are bound to take a decision in this regard. Since there is a recommendation by the fifth respondent in proceedings dated 13.10.2010, this Court is inclined to direct the respondents 2 and 3 to consider the recommendations made

in favour of the writ petitioner on 13.10.2010 and pass final orders on the claim of the medical reimbursement of the writ petitioner, within a period of six weeks from the date of receipt of a copy of this order.

10. Accordingly, the writ petition is disposed of. However, there shall be no order as to costs.

21-08-2017

Speaking Order/Non-Speaking Order.

Index : Yes/No.

Internet : Yes/No.

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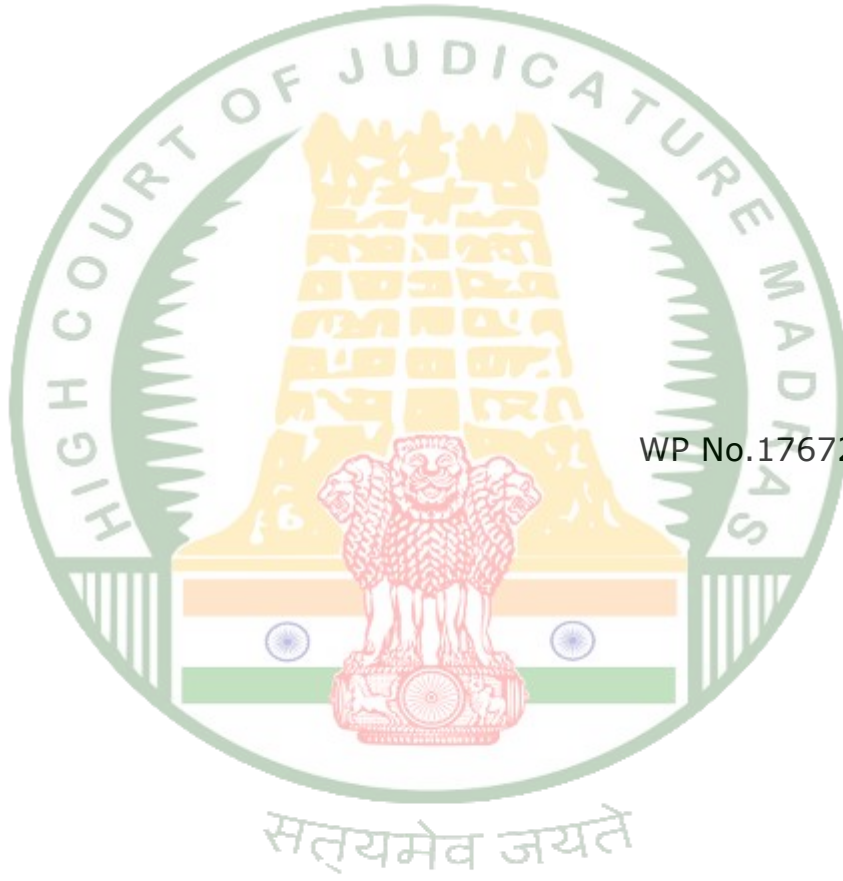
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To

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S.M.SUBRAMANIAM, J.

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