

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06-07-2017

CORAM:

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.3899 of 2017

P.Venkatachalam

... Petitioner

vs.

1. The Government of Tamil Nadu rep.
by the Secretary to the Government,
Environment and Forest Department,
Fort St. George,
Chennai-600 009.
 2. The Principal Chief Conservator of Forests,
Panagal Maligai,
Saidapet,
Chennai-600 015.
 3. The Conservator of Forests,
Salem,
Salem District.
- ... Respondents

This Writ Petition is filed under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order of the third respondent in Na.Ka.No.8818/2013 K2 dated 28.10.2016 and quash the same and direct the respondents to reimburse the medical claim of Rs.1,72,483/- submitted by the petitioner with due interest.

For Petitioner : Mr.P.Mohanraj

For Respondents : Mr.M.Santhana Raman,
Additional Government Pleader
(Forests).

O R D E R

The prayer sought for in this writ petition is challenging the order of rejection of the medical reimbursement claim submitted by the writ petitioner.

2. The writ petitioner was working in the post of Forester and retired from service on attaining the age of superannuation on 30.9.2016. The writ petitioner on account of some serious ailments was diagnosed "DIABETES MELLITUS, RECENT NSTEMI, UNSTABLE ANGINA, CORONARY ARTERY DISEASE-LEFT MAIN DISEASE AND SINUS RHYTHM" and in view of the urgency, he was advised by the Doctors to get himself admitted in the hospital and on admission, the writ petitioner had undergone a Surgery.

3. After his discharge, the writ petitioner submitted an application, seeking reimbursement of his medical expenditure and the same was rejected by the respondent on the ground that the hospital in which the treatment was taken by the writ petitioner is not a listed hospital in the Government Order. Thus, the third respondent took a stand that the treatment taken in an unapproved hospital and the writ petitioner is not entitled for medical reimbursement.

4. The counter filed in this writ petition, by the third respondent-Conservator of Forests, also states that the hospital, in which the writ petitioner got treated, is an unapproved hospital by the Government and the petitioner is not entitled to claim medical reimbursement.

5. Time and again, the Hon'ble Supreme Court as well as the Madras High Court, reiterated and emphasised that the claim of medical reimbursement is also covered under Article 21 of the Constitution, since the scope of Article 21 was expanded to the extent of providing good medical facilities to the citizens of this Great Nation and providing medical facility is a primary duty of the State and consequently, a good treatment for any citizen is ensured under Article 21 of the Constitution of India. The life does not mean a mere animal life, but it is a decent life and to lead a decent life, reasonable medical facility is necessary.

6. Such being the scope of expansion carried out by the Courts only to provide the basic necessity of medical treatment to the citizens of the country, the medical claim is also to be included along with that. A mere technicality of listing or not listing of an hospital in the Government Order, will not disentitle the retired Government employee from claiming his right of medical reimbursement.

7. It is not disputed that the writ petitioner is not a member of the Medical Scheme, in fact, the writ petitioner is paying monthly subscription in order to avail the benefit of the Government Medical Scheme. Being a member of the Scheme, the third respondent cannot deny the reimbursement on the technical ground that the hospital is not a listed hospital.

8. This apart, a man in urgency and his life itself is in peril, no prudent man will expect that he will find out the Government Order and the hospital and thereafter go to such an hospital to take treatment. No one can be expected to do so and in fact, a man in emergency will be spontaneously admitted in any one of the nearby hospital and it is the duty of the Doctors to provide good medical facility to a patient, who is in emergency.

9. In the case on hand, when the writ petitioner was advised to undergo a Surgery, without any further delay, one can imagine that he will be in stress and strain and his mind will be focusing only on the treatment to be undertaken, so also to his family members. Under these circumstances, the Government cannot expect a man in stress and strain and emergency, will search for the Government Order to find out what are all the hospitals for taking treatment in order to get medical reimbursement. It is absolutely impracticable approach and therefore the rejection of medical reimbursement on this ground deserves to be scraped.

10. It is the duty of the respondents to verify the genuinity of the treatment taken by the writ petitioner. Once the writ petitioner has proved that he has actually undergone the medical treatment, then it is not open to the Authorities to reject the claim for medical reimbursement. Thus, the genuinity of the treatment alone must be the precondition for disbursing medical reimbursement claim.

11. In this view of the matter, this Court is inclined to consider the claim of the writ petitioner. Accordingly, the order impugned dated 28.10.2016 is quashed and the respondents are directed to pay the medical reimbursement claim of the writ petitioner, within a period of four weeks from the date of receipt of a copy of this order. The writ petition stands allowed, however, there shall be no order as to costs.

Sd/-

Asst.Registrar (CS V)

/true copy/

Sub Asst. Registrar

Svn

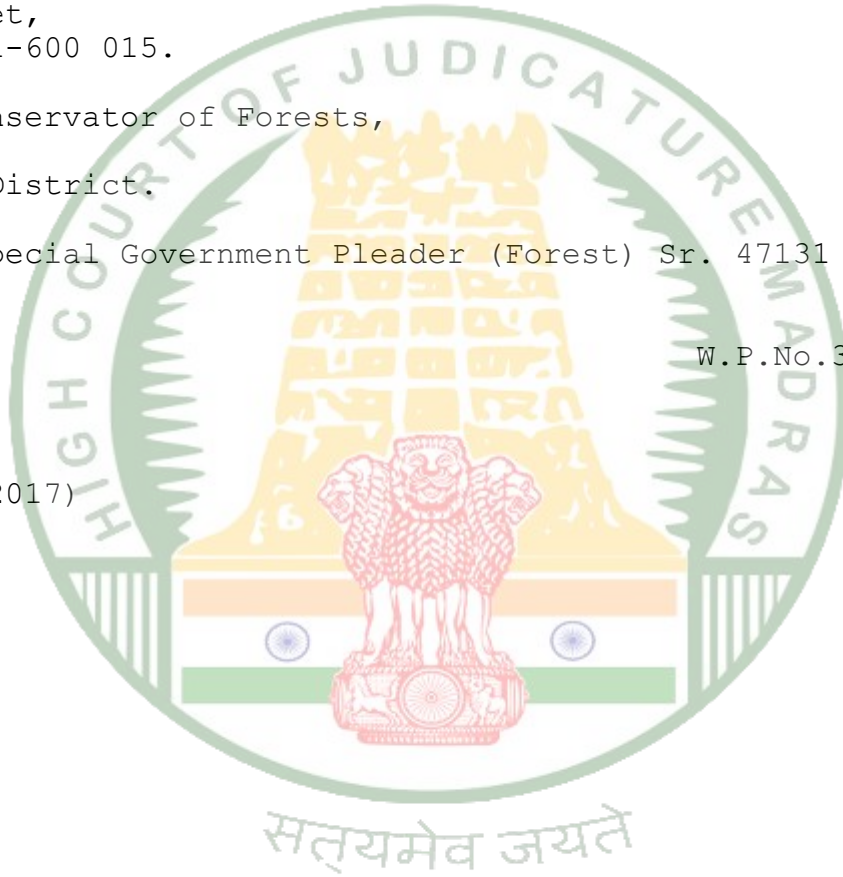
To

1. The Secretary to the Government,
Government of Tamil Nadu,
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2. The Principal Chief Conservator of Forests,
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+1cc to Special Government Pleader (Forest) Sr. 47131

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