

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 28.08.2017

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.42745 of 2016
and
W.M.P.No.36669 of 2016

T.Subbiah

.. Petitioner

Versus

1. The Director of Treasuries and Accounts,
Government of Tamil Nadu,
Panagal Building, Saidapet,
Chennai - 600 015.
2. The Director in-charge,
Seeds Certification and Organic Certification,
142-A, Thadagam Salai,
Coimbatore - 13.
3. The Deputy Director of Seed Inspection,
4, Rajarajeshwari Nagar,
Opposite to new bus stand, NGO-B Colony
Trinelveli

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus to call for the records and quash the impugned order O.Mu.No.Aa4/13186/16, dated 25.07.2016 issued by the second respondent herein and direct the second respondent to recommend and forward the petitioner's claim of Rs.42,397/- to the 1st and 3rd respondents to disburse the treatment amount of a sum of Rs.42,397/- together with interest at 24% p.a from the date of remittance made by the petitioner to the hospital on 02.07.2015 and to award the cost of this writ.

For Petitioner : Ms.M.Krishnaveni

For Respondents : Mr.R.S.Selvam
Government Advocate

O R D E R

The order of rejection passed by the second respondent in proceedings No. O.Mu.No.Aa4/13186/16 dated 25.07.2016, in relation to the medical reimbursement claim of the writ petitioner, is under challenge in this writ petition.

2. The writ petitioner is working as Seed Inspector and a member of the medical insurance scheme. The writ petitioner is subscribing for the said scheme and his identification number is TNV/01/HJ/201/NH1512/1299052. Accordingly, the writ petitioner is eligible for medical reimbursement under the Tamil Nadu New Health Insurance Scheme, 2012.

3. The learned counsel appearing for the writ petitioner states that due to sudden illness, the wife of the petitioner got admitted in the hospital and underwent a surgery for TB/URETERITIS/DM.

4. The wife of the writ petitioner was admitted on account of urgency and on critical situation. Accordingly, the writ petitioner agreed for the surgery as suggested by the specialist Doctor in Ponra Nursing Home, Surandai. Thus, the surgery was undertaken to the wife of the writ petitioner by admitting her on account of certain urgency and the writ petitioner had no opportunity to find out the approved hospital as per the scheme. Accordingly, the writ petitioner submitted an application seeking medical reimbursement under the New Health Insurance Scheme. However, the same was rejected on the ground that the hospital, where the treatment was taken by the wife of the writ petitioner is not an approved hospital under the list prescribed in the scheme.

5. The very object of the medical scheme is to provide assistance to the Government employees for medical treatment. Merely taking treatment in an unapproved hospital cannot be a ground to deny the medical reimbursement claim of the Government employee. Right to life is a fundamental right enshrined under Article 21 of the Constitution of India. The Hon'ble Supreme Court of India time and again reiterated and emphasized that right to life cannot be interpreted as animal life and it is a decent life, which is to be enshrined. Enlarging the scope of Article 21 of the Constitution of India, the Hon'ble Supreme Court went one step ahead, providing medical facilities is also

to be included in right to life. Thus, the medical facilities are to be extended to all the citizens of this great nation, which is also a right to life under the Constitution of India.

6. When the Constitutional 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 violative of the fundamental rights. The State in this regard should be a modal employer and the Insurance Companies as well as the State are duty bound to deliver the scheme promptly and more specifically, the health schemes. A State cannot deny the benefit of medical reimbursement on mere technicalities. It is for the respondents to find out the genuineness of the medical reimbursement claim, once the treatment undertaken is established by the person, who is claiming medical reimbursement. Then the same to be provided in accordance with the scheme.

7. In the case on hand, the writ petitioner states that in view of the urgency, his wife was admitted in the nearby hospital and underwent surgery. The respondents can very well verify the genuineness of the treatment provided to the wife of the writ petitioner and they cannot deny the claim on the ground that the hospital in which the treatment was taken is not an approved one under the said health scheme. In urgent circumstances, immediate medical help to the patient is eminent and the writ petitioner cannot be driven to search for the approved hospital and admit his wife, such is the relevance in this matter and denial of the medical reimbursement is improper.

8. Accordingly, the order impugned in this writ petition issued by the second respondent in proceeding No.O.Mu.No.Aa4/13186/16 dated 25.07.2016 is quashed and the respondents are directed to disburse the medical reimbursement claim to the writ petitioner in accordance with the scheme, within a period of four weeks from the date of receipt of a copy of this order.

Accordingly, writ petition is allowed. No Costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

at

To

1. The Director of Treasuries and Accounts,
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+1 cc to Mr.M.Krishnaveni Advocate sr 61433

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aa18/09/2017



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