



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **04.04.2017**

CORAM :

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THE HONOURABLE MR.JUSTICE S.S.SUNDAR

W.P. (MD) No.18212 of 2014
and
MP (MD) Nos. 1 and 2 of 2014

Tmt.G.Rajammal Mobel Star(Senior Citizen) ... Petitioner

Vs.

01.The Government of Tamil Nadu,
Represented by its Secretary,
Finance(Pension) Department,
Fort St. George, Chennai-600 001.

02.The District Treasury Officer,
Tuticorin Head Quarters,
Tuticorin.

03.The District Collector,
Tuticorin, Tuticorin Collectorate,
Tuticorin District.

04.The United India Insurance Company Limited,
212, Anna Salai, Chennai-600 006.

05.Thiraviam Orthopedic Hospital,
Represented by the Medical Officer,
2-191, Tirunelveli Main Road,
Therekalputhoor,
Thirupathi Saram,
Nagercoil-629 901,
Kanyakumari District.

...Respondents

PRAYER: The Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for all records relating to Para 11 conditions (a) to (g) prescribed in G.O.MS.No.171 Finance (pension) Department dated 26.06.2014 the 1st respondent and the consequential letter of the 4th respondent dated 23.09.2014 and quashing the same and direct the 4th respondent to reimburse the medical expenses incurred with through the 5th respondent or through the 2nd respondent with such time by this Court.



For Petitioner : Mr.M.Joseph Thatheus Jerome
For R1 to R3 : Mr.J.Gunaseelan Muthiah,
Government Advocate.
For R4 : No appearance
For R5 : Mr.K.Vamanan

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O R D E R

Heard Mr.M.Joseph Thatheus Jerome, learned counsel appearing for the petitioner, Mr.J.Gunaseelan Muthiah, learned Government Advocate appearing for the respondents 1 to 3, Mr.K.Vamanan, learned counsel appearing for 5th respondent.

2.The petitioner, who is a retired Secondary Grade Teacher, is entitled to reimbursement of the amount spent by her for health care. Though the petitioner retired from service on 31.05.1997, and getting pension it is stated by the petitioner that a sum of Rs.150/- (Rupees One hundred and Fifty only) is being deducted from pension, for the purpose of the Health Insurance Scheme. The petitioner fell down at home and sustained a fracture in her left hip. The petitioner was admitted in Thiraviam Orthopedic Hospital, where she took treatment for the injury. The petitioner was ultimately discharged on 29.07.2014 and advised further to be under treatment for two weeks. The total amount spent by the petitioner towards treatment was Rs. 1,47,181/- (Rupees One Lakh Forty Seven Thousand and One Hundred and Eighty One Only). There were further expenses incurred by the petitioner for the continuous treatment till the filing of the writ petition.

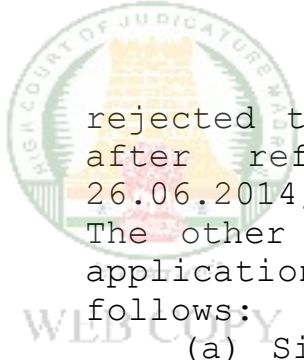
3.When the petitioner made a claim for medical reimbursement to the second respondent along with the Discharge Summary, Hospital Bill, Pension Payment order and other details of documents, the petitioner's application for medical reimbursement was rejected by the 4th respondent by the impugned order.

4.Hence, the present writ petition came to be filed by the petitioner. The petitioner has raised several grounds on the basis of the constitutional guarantee given to the retired employees and on the basis of executive instructions given by the Government and the liability of the respondents fixed by this Court in several judgments.

5. The petitioner also brought to the notice of this Court that the application of the petitioner was turned down by the insurance company, namely, the 4th respondent herein despite the fact that the hospital, in which, the petitioner had taken treatment, namely, Thiraviam Orthopedic Hospital, Nagercoil, is a network hospital. It was stated further that the 4th respondent would give approval based on the request received from the network hospital based on ID card and other particulars in the specific format prescribed in the Government Order.

<https://hcservices.ecourts.gov.in/hcservices/>

6.Since, it is the case of the 4th respondent that they did not receive any request from the hospital concerned, the 4th respondent



rejected the request of the petitioner. The 4th respondent, also after referring to G.O.Ms.No.171 Finance (Pension), dated 26.06.2014, stated that there is a procedure for taking treatment. The other reasons given by the 4th respondent for rejecting the application of the petitioner for medical reimbursement are as follows:

(a) Since the scheme is cashless basis, no payment is to be made by the employee to the approved hospitals.

(b) Payment will be made to the hospitals only for approved treatment procedures mentioned in the Government Orders.

(c) Payment will be made only after the pre-authorisation approval obtained.

(d) Any claim in deviation of the above procedure for reimbursement will be rejected.

7. In the present case, it is pointed out that the treatment, for which, the petitioner had undergone is covered by the list of accredited treatments and surgeries enumerated in Annexure II the G.O.Ms. 171, dated 26.06.2014, (Finance Pension Department). Item 12 in clause 2 of Annexure II refers to surgeries for bones and joints.

8. One of the procedures that was referred to in the impugned order is that no payment is required to be paid by the employees to the approved hospitals. It is admitted in the impugned order that the hospital in which the petitioner has taken treatment is one of the network hospitals specified in the Government Order itself.

9. Merely because no payment is required to be made by the employee, the claim cannot be rejected merely on the ground that payment had already been paid by the employee. Such a reason shows perversity in the approach and unreasonableness in the conduct of 4th respondent. Merely because the payment can be made only after the pre authorisation approval as per the procedure, it does not follow that the medical reimbursement can be rejected on that score. The medical reimbursement is a welfare scheme as interpreted by this Court in number of judicial proceedings. It cannot be treated as a bonus or bounty or reward which can be granted or rejected by exercising the discretion of the Insurance Company. It has been categorically held by several judgments by this Court that the Government is liable to meet the medical reimbursement claim despite there are limitations for enforcing the contractual liabilities of the Insurance Company.

10. In such view of the matter, this Court has no hesitation to set aside the impugned order of 4th respondent. During the course of argument, the learned counsel for the petitioner has also brought to the notice of this Court the proceedings of the District Collector dated 12.03.2016 recording the recommendation of the empowered Committee headed by the District Collector,



Tuticorin. The empowered committee of District level has recommended the disbursement of medical reimbursement amount to the petitioner. It is not in dispute that the District Collector is the Chairman of empowered committee and the District Collector, Tuticorin District has recommended the case of the petitioner to be eligible to get medical reimbursement. The said decision is binding on the respondents even as per the scheme.

11. In such view of the matter, the writ petition is allowed and the 4th respondent is directed to disburse a sum of Rs.1,47,181/- (Rupees One Lakh Forty Seven Thousand and One Hundred and Eighty One Only) to the petitioner within a period of four weeks from the date of receipt of copy of this order.

Sd/-

Assistant Registrar (CSII)

/True Copy/

Sub-Assistant Registrar

To

01. The Secretary, Government of Tamil Nadu,
Finance (Pension) Department,
Fort St. George,
Chennai-600 001.

02. The District Treasury Officer,
Tuticorin Head Quarters,
Tuticorin.

03. The District Collector,
Tuticorin,
Tuticorin Collectorate,
Tuticorin District.

+1 CC TO MR.M.JOSEPH THATHEUSJER, ADVOCATE, SR NO.50429

+1 CC TO SPECIAL GOVERNMENT PLEADER SR NO.50217

myr/tsg

MAS/SV-MMS:24.04.2017:4P-6C

W.P. (MD) No.18212 of 2014

and

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