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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.12.2017

CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P(MD) No.19816 of 2015

S.Udayar

... Petitioner

-vs-

1.The Govt.of Tamilnadu,
rep.by its Secretary,
Fort St.George,
Chennai.

2.The State Coordinator,
MD India Health Care Services (TPA) Pvt Ltd.,
No.27/7, Lakshmi Towers III floor,
Dr.R.K.Salai,
Mylapore, Chennai - 600 004.

... Respondents

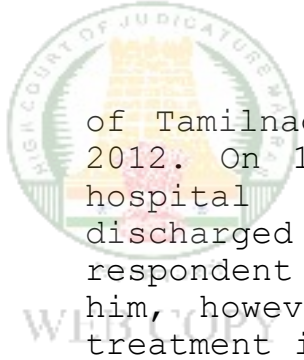
PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned order passed by the 2nd respondent dated 07.05.2015 and quash the same as illegal and consequently direct the respondents 1 and 2 to pay the petitioner a sum of Rs.2,33,465/- towards the medical expenses incurred by the petitioner with 9% interest from the date of remittance of amount to the hospital by the petitioner till the date of payment within a time frame fixed by this Court.

For Petitioner : Mr.J.Jeyakumaran

For Respondents : Mr.J.Gunaseelan Muthiah
Government Advocate

O R D E R

This writ petition has been filed, seeking to quash the impugned order passed by the second respondent dated 07.05.2015 and consequently direct the respondents 1 and 2 to pay a sum of Rs.2,33,465/- towards the medical expenses incurred by the petitioner with 9% interest from the date of remittance of amount to the hospital till the date of payment.



of Tamilnadu and he is a member of New Health Insurance Scheme - 2012. On 11.02.2015, he underwent Cardiac Bypass Surgery in SIMS hospital (SRM Institute of Medical Sciences), Vadapalani and discharged on 16.02.2015. Thereafter, he approached the second respondent seeking reimbursement of the medical expenses incurred by him, however, his claim was rejected on the ground that he took treatment in a Non-network hospital. Hence, the petitioner is before this Court by filing the present writ petition.

3.The learned Counsel for the petitioner submitted that the issue involved in this writ petition is squarely covered by the earlier order of this Court in **M.Bharathi v. The District Collector, Tirunelveli District, Tirunelveli and others** [W.P(MD)No.14113 of 2014, decided on 19.09.2014] and prayed for passing similar orders in this writ petition also.

4.Whereas the learned Government Advocate appearing for the respondents, on instructions, submitted that the claim of the petitioner may be directed to be considered by the second respondent in the light of the earlier order passed by this Court in the above judgment and prayed for passing appropriate orders.

5.I have considered the rival submissions and perused the materials available on record.

6.In similar circumstances, this Court, in **M.Bharathi v. The District Collector, Tirunelveli District, Tirunelveli and others** [W.P(MD)No.14113 of 2014, decided on 19.09.2014], has held as under:

"The petitioner seeks for issuance of Certiorarified Mandamus to quash the impugned order of the 2nd respondent and for a consequential direction to the respondent to reimburse the medical expenses of Rs.4,58,497/- to him.

2. The issue raised in this writ petition is no longer res integra and has been decided in earlier writ petitions and it is worthwhile to refer to the decision of this Court in W.P.(MD) No.7604 of 2014 dated 30.04.2014, wherein it has been held as follows:

"6.In this case, the Petitioner's claim for medical reimbursement was rejected only on the reason that the Petitioner's husband had undergone the treatment at the non net-work hospital(KIMS HOSPITAL, TRIVANDRUM). Such objection raised in similar matter was considered and rejected by this Court in W.P.No.8449 of 2007, dated 25.09.2013 by following the earlier decisions of this Court. Para 6 of the above said order reads as follows:

6.As rightly observed by the learned Single Judge in W.P.No.2714 of 2007(T)



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(O.A.No.5757 of 2001), dated 4.11.2011, a person struggling for life or his family members cannot be expected at the golden hours to search for a recognized hospital to save the life of such person for the immediate medical facilities. The idea to get the MEDICAL REIMBURSEMENT will not certainly strike in their mind at that point of time so as to search for hospitals, which are listed by the Government as recognized institutions. Therefore, if that requirement is expected to be complied with by the ailing person or his family members, then the object of giving the reimbursement itself would be totally defeated. Therefore, I am in full agreement with the observations made by the learned Single Judge of this Court in their respective decisions cited supra. Accordingly, the Writ Petition is allowed and the impugned order is set aside and the respondents are directed to reimburse the Petitioner the amount claimed by him within a period of eight weeks from the date of receipt of a copy of this order. No costs."

7.It is further seen that the above order of this Court is subsequently followed by a learned Single Judge of this Court in W.P(MD) No.14585 of 2013 dated 21.1.2014 wherein the learned Judge has observed in para 5 as follows:

"5.As rightly observed by the learned Single Judge in W.P.No.2714 of 2007(T) (O.A.No.5757 of 2001), dated 4.11.2011, a person struggling for life or his family members cannot be expected at the golden hours to search for a recognized hospital to save the life of such person for the immediate medical facilities. The idea to get the MEDICAL REIMBURSEMENT will not certainly strike in their mind at that point of time so as to search for hospitals, which are listed by the Government as recognized institutions. Therefore, if that requirement is expected to be complied with by the ailing person or his family members, then the object of giving the reimbursement itself would be totally defeated. Therefore, I am in full agreement with the observations made by the learned Single Judge of this Court in their respective decisions cited supra. Accordingly, the Writ Petition is allowed and the impugned order is set aside and



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the respondents are directed to reimburse the Petitioner the amount claimed by him within a period of eight weeks from the date of receipt of a copy of this order. In view of the judgement referred to supra, this Writ Petition is allowed and accordingly the order impugned is set aside and consequently the first respondent is directed to reimburse the medical expenses pertaining to the Petitioner within a period of eight weeks from the date of receipt of a copy of this order. No costs. Consequently connected Miscellaneous Petition is closed."

3. Following the above decision, the writ petition is allowed and the 2nd respondent is directed to reimburse the medical expenses incurred by the petitioner within a period of eight weeks from the date of receipt of a copy of this order. No costs. Consequently connected miscellaneous petition is closed."

7. Following the same, this writ petition is allowed and the impugned order passed by the second respondent dated 07.05.2015, is quashed and consequently, the respondents are directed to reimburse the medical expenses incurred by the petitioner within a period of four weeks from the date of receipt of a copy of this order. No costs.

Sd/-

Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar

To

1. The Secretary,
Govt. of Tamilnadu,
Fort St. George,
Chennai.

2. The State Coordinator,
MD India Health Care Services (TPA) Pvt Ltd.,
No.27/7, Lakshmi Towers III floor,
Dr.R.K.Salai,
Mylapore, Chennai - 600 004.

+1cc to THE SPECIAL GOVERNMENT PLEADER in SR. No. 93123

+1cc to Mr.S.JEYAKUMARAN Advocate in SR. No. 92739

MJ

JS/MR/SAR.1/05.01.2018/4P-5C

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

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