



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.11.2017

CORAM:

WEB COPY

**THE HONOURABLE MS.INDIRA BANERJEE, CHIEF JUSTICE
AND
THE HONOURABLE MRS.JUSTICE J.NISHA BANU**

W.A. [MD].No.843 of 2017
and CMP No.5757 of 2017

1.The District Collector
Madurai District, Madurai.

2.The Joint Director
Medical and Rural Health Services Department
Madurai District Head Quarters, Usilampatty
Madurai District

3.The Treasury Officer,
District Treasury
Madurai.

: Appellants/Respondents

Vs.

J.Kanagam

: Respondent/Writ Petitioner

PRAYER: Writ Appeal is filed under Clause 15 of Letters Patent against the order of this Court dated 06.10.2016 in W.P.(MD) No.18935 of 2016.

Prayer in WP(MD). 18935/ 2016 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records connected with impugned order passed by the 3rd respondent in his proceedings O.Mu.No. 163/1/2016 M1 dated 20.7.2016 and quash the same and consequently direct the respondents to Reimburse Rs. 1,15,569/- (Rupees one Lakhs fifteen thousands five hundred and sixty nine only) being the actual medical expenditure incurred by the petitioner for the treatment given to the petitioners husband for the brain problem diagnosed as OLD CVA/Multiinfarcsatate/SeverCystitis/Prostatomegaly undergone by the petitioner's hunsband in LAKSHMANA Multi Speciality Hospital, Madurai, within a specified period that may be fixed by this Hon'ble Court.

For Appellants

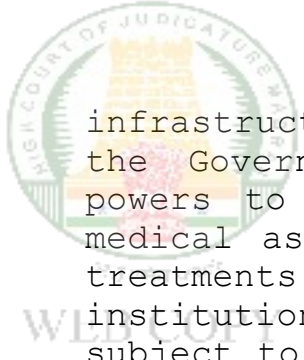
: Mr.V.R.Shanmuganathan

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

Special Government Pleader

For Respondent

: Mr.S.Govindan



infrastructure for the treatment/surgery in the hospital. As per the Government order, the Director of Pension has delegatory powers to sanction pending claims as well as future claims for medical assistance for the pensioners in respect of any eligible treatments as well as eligible treatment taken in unaccredited institutions both within the State as well as outside the State subject to the procedures specified. The procedure, *inter alia*, is that the Pension Pay Officer/District Treasury Officer/Sub Treasury Officer/Branch Manager of Public Sector Bank, after satisfying himself about the details furnished in the application, shall consult the District Medical Officer attached to the Government Hospitals under the control of Director of Medical and Rural Health Services in the District and the Director of Medical Education in Chennai, as the case may be, who shall certify the existence of facilities and infrastructure for the treatment/surgery undergone in the hospital.

7. In the case of *N.Raja v. the State of Tamil Nadu* reported in (2006) 3 CTC 394, the contention that the writ petitioner had been treated in a hospital, which was not listed, was not accepted by this Court and the Government was directed to reimburse the amount. In the case of *MD India Healthcare Services (TPA) Limited v. K.Parameswari* being W.A.(MD) No.1579/2016, a Division Bench of which, one of us (J.Nisha Banu,J.) was member, passed an order dated 16.12.2016 allowing the claim of the husband of the writ petitioner therein.

8. The treatment of the writ petitioner/respondent's husband is not in dispute. In an emergency, a patient may not be in a position to search a network hospital listed out in a Government Order. In any case, there could be no justification in the rejection of a claim on the ground that the writ petitioner had made payment, when, in fact, the Scheme was a cashless one. Payment under compulsion to facilitate treatment cannot possibly be a ground for rejecting a genuine claim to medical reimbursement.

9. We find no grounds to interfere with the order of the learned Single Bench. The writ appeal is dismissed. The interest shall, however, be 6% p.a., and not 9% p.a., as directed by the learned single Bench. No costs. Consequently connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar

/True copy/

Sub Assistant Registrar

To

<https://hcservices.tn.gov.in/hcservices> Collector

Madurai District, Madurai.



2.The Joint Director

Medical and Rural Health Services Department

Madurai District Head Quarters, Usilampatty

Madurai District

3.The Treasury Officer,

District Treasury

Madurai.

+1cc to Mr.S.GOVINDAN,Advocate,SR.89986

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RR/RSB

KK/MR KKR/SAR 1/15.12.2017/ 4P- 5C/