BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.08.2017

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P(MD)No.18216 of 2016

M.Mahendran ... Petitioner

-vs-

1.The Principal Secretary to Government
Finance (Salaries) Department
Secretariat, Fort St. George
Chennai.

2.The Joint Director of Medical and
Rural Health Services Department
Government Hospital
Usilampatti, Madurai District

3.The United India Insurance Company Limited,
Divisional Office: 010700 first Floor,
Siling building, 134 Greams Road, Chennai

4.The General Manager,
Tamilnadu State Transport
Corporation (Madurai) Ltd.,
Bye pass Road, Madurai. ... Respondents

Prayer: Writ Petitions filed under Article 226 of Constitution of India, praying for issuance of a Writ of Mandamus to direct the respondents to reimburse Rs.84,291/- (Rs. Eighty four thousand two hundred and ninety one only) being the balance of the actual medical expenditure amount incurred by the petitioner for the treatment of petitioner's heart disease within the stipulated period.

For Petitioner : Mr.A.Rahul
For Respondents : Mr.D.Muruganandham for R1 & R2
Addl. Government Pleader
Mr.A.Shahjahan for R3
Insurance company
Mr.A.P.Muthupandian for R4

ORDER

This Writ Petition has been filed for a direction to the respondents to reimburse Rs.84,291/- (Rs. Eighty four thousand two hundred and ninety one only) being the balance of the actual medical expenditure amount incurred by the petitioner for the treatment of petitioner's heart disease within the stipulated period.

2.Heard the learned counsel for the petitioner, the learned Additional Government Pleader for the respondents 1 and 2, learned counsel for the 3rd respondent and the learned counsel for the 4th respondent.

3.The petitioner joined the services of the 4th respondent Corporation as Helper on 01.01.1981. After two years of his continuous and satisfactory service, his services have been regularised with effect from 01.09.1983 and he has been promoted as Senior Tradesman in the respondent Corporation, Madurai.

4. While so, on 30.05.2016, he suffered chest pain. Therefore, he was taken to Vadamalayan Hospital, Madurai for taking treatment there for. After a thorough diagnosis and investigation, it was found that he suffered Type II Diabetes Mellitus Systemic Hypertension Coronary Disease Single Vessel Disease. On the same day, left coronary was cannulated using 5 Fr EBU 3.5 guiding cather, through right artery, since the said Vadamalayan Hospital, Madurai, has been included in the approved list of private hospitals accredited for the speciality specified in Annexure II in G.O.Ms.No.243 Finance, (Salaries) Department, dated 29.06.2012. He was discharged from the hospital on 01.06.2016 remitting the balance medical bills of Rs.84,291.34/-, after adjusting the United India Insurance amount of Rs.1,50,000/-.

5. The grievance of the petitioner is that he was covered by the Tamilnadu Government New Health Insurance Scheme under the United India Insurance Company Limited. The said Scheme was also implemented with effect from 01.07.2012 to 30.06.2016 for a block period of four years. The said Scheme also further states that the employee working in the Tamilnadu State Transport Corporation covered by the Tamilnadu New Health Insurance Scheme subscribes Rs.150/- from his salary every month. The employee and his eligible family members can avail the medical health facility for a maximum amount of Rs.4 lakhs within a block period of four years. Since the petitioner has subscribed as per the said Scheme, a sum of Rs.150/- from his salary, he is entitled to be reimbursed a sum of Rs.4 lakhs, if he gets admitted in any hospital for treatment. In the present case, the petitioner's Medical Identity Card issued by the Insurance Company No.MDU/01029/NHIS12/5046458 clearly shows that a sum of Rs.150/- has been recovered from his salary every month from 1st July 2012 to till date. Therefore, the petitioner and his family members are entitled to get the medical treatment facility to the extent of Rs.4 lakhs.

6. The learned counsel for the petitioner would submit that till now, the petitioner and his family members have not availed any medical facility prior to this incident. Therefore, when he suffered severe chest pain on 30.05.2016, and was immediately admitted in the hospital at Madurai for treatment, the entire medical expenses have to be borne by the United India Insurance Company Limited alone, whereas, the United India Insurance company sanctioned only a sum of Rs.1,50,000/- instead of Rs.2,34,291/-. When the Hospital has issued medical summary details on 01.06.2016 asking the petitioner to pay a sum of Rs.2,34,291/- as total medical expenses, the Insurance Company had come forward to pay only a sum of Rs.1,50,000/-. Therefore, after adjusting a sum of Rs.1,50,000/-, the balance amount was paid by the petitioner for his discharge from the hospital.

7. Referring to G.O.Ms.No.243 dated 29.06.2012, Finance Salaries Department issued by the Government of Tamilnadu, it is stated that the Government has come forward to provide the employees and their eligible family members covered under the Scheme, financial assistant upto the limit of Rs.4 lakhs in a block of four years commencing from 01.07.2012 to 30.06.2016 on a cashless model for the approved treatment and the surgery in the approved hospitals by the Insurance Company. Therefore, the benefit will be on a floating basis ie., total coverage upto Rs.4 lakhs can be availed by any individual.

8. But, in the present case, when the Government has already issued the G.O., based on which, the petitioner's subscription of Rs.150/- has been deducted from his monthly salary till now regularly and being paid to the 3rd respondent United India Insurance Company limited, it is not open to them to refuse the full medical expenses charged by Vadamalayan Hospitals, Madurai, for the medical treatment underwent by the petitioner, including the surgery and hence, a direction may be issued, he pleaded.

9. The learned Additional Government Pleader would submit that the Government of Tamilnadu have implemented New Health Insurance Scheme 2012 on 01.07.2012 for employees of the Government of Tamilnadu, after implementing the Scheme, one another G.O.Ms.No.243 Finance Salaries Department on 29.06.2012 on NHIS2012 providing guidelines and procedure for taking treatment has been issued. The scheme is on cashless basis and no payment is to be paid by the employees to the approved hospitals. There are 655 hospitals approved and listed vide G.O.Ms.No.680 dated 27.09.2013 and 59 surgical and 54 medical management procedures are approved under the said Scheme. In this regard, when the petitioner had taken treatment for himself in Vadamalayan hospitals, Madurai, the service provider received the pre-authorisation request for the said patient from Vadamalayan

Hospital for the diagnosis of CAD SVD on 29.05.2016 and they have approved Rs.80,000/- as initial approval on the same day. Thereafter service provider also received a final bill for Rs.2,33,700/- and the additional approval for Rs.70,000/- and total approval is Rs.1,50,000/- was obtained on 01.06.2016. Though the stent cost comes to Rs.1,30,000/- and approval has been given as per usual and customary charges, which is maximum of Rs.70,000/-, since the drug eluding stent is good quality of the two, the 2nd respondent has given approval for drug eluding stent, which gives the stent life for more than 15 years. The petitioner also objected for high end stent. However, the employee having opted for high end stent that differential amount between approved amount, the cost of the high end stent shall be borne by the employer. Therefore, in this case, the service provider has given a maximum approval during the pre authorisation. As this is not a general health Insurance policy, but a special policy for the benefit of the employees of the Government of Tamilnadu, any claim made by the petitioner in deviation of the above procedure is liable to be rejected.

10. But the counter affidavit filed by the 2nd respondent Joint Director Medical and Rural Health Services, Madurai, shows that once the Government has introduced the New Health Insurance Scheme 2016 implementing through the United India Insurance Limited, Chennai, when the specific procedure enclosed in the Annexure in G.O.Ms.Nos.243, 202, 241 Finance Salaries Department dated 29.06.2012, 30.06.2016 and 24.08.2016 respectively, the employees and their eligible family members have to enroll under the new Health Insurance Scheme 2016. In the present case, the petitioner has rightly enrolled under the said Scheme. Therefore, they are entitled to avail assistance upto the limit of 4 lakhs in a block of four years commencing from 01.07.2016. As the petitioner has paid premium under the Scheme with the third respondent, all the parties are bound by the procedure laid down in Clause 15 of G.O.Ms.No.202 Finance Salaries Department dated 30.06.2016.

11. The learned Additional Government Pleader would further submit that since the District Level Empower Committee has been constituted to decide this type of grievance, the petitioner should approach the District Level Empower Committee. Therefore, the matter may be referred to the District Level Empower Committee to decide the matter on merits quickly.

12. At this juncture, relying on a reported judgment of this Court in the case of K.Mani v. Secretary to Government, Health and Welfare Department, Chennai and others reported in 2007(3) MLJ 34, the learned counsel for the petitioner submitted that this Court in similar circumstances in Paragraph No.21 clearly held that when the Government itself states that it is a specialised advanced treatment and it is too late to state that while the Government is

willing to foot the bill for open heart surgery that it will not provide for a scientifically advanced treatment in the medical world.

13. I find merits in the submission of the learned counsel for the petitioner.

14. The Government has introduced New Health Insurance Scheme 2012 to the employees of the Government Department organisation covered under the Scheme and their eligible family members through the United India Insurance Limited, Chennai.

15. The relevant paragraph of the said G.O., has given as under:

> "3.After careful consideration the tender has been awarded to the United India Insurance company Limited, Chennai and the said Company has executed an agreement with the Government for implementation of the New Health Insurance Scheme, 2012. The annual premium for this Scheme shall be Rs.1,860/- per employee plus service tax is applicable for a block period of four years commencing from 1.7.2012 to 30.06.2016. This Scheme is administered through a third party Administrator under the control of United India Insurance Company Limited, Chennai. The payment of premium shall be regulated as per the terms and conditions of the agreement between the Insurance Company and Government.
>
> 4.The Government also direct that the implementation of the New Health Insurance Scheme, 2012 shall be administered by the Commissioner of Treasuries and Accounts, Chennai - 15. The implementation, procedure outlined in the Annexure - I to this order shall be adopted.
>
> 5.The Employees and their eligible Family Members covered under this Scheme shall avail assistance upto the limit of Rupees Four lakh in a block of four years commencing from 01.07.2012 to 30.06.2016 on a cashless model for the approved treatments and surgeries in the hospitals approved by the Insurance Company/third party Administrator under this Scheme. The benefit will be on a floater basis, ie., the total coverage upto Rupees Four Lakh can be availed of individually or collectively by the Employees and their eligible Family Members during the said block period with no restriction on the number of times of availing."

16. It is not disputed by the respondents that the petitioner has subscribed a sum of Rs.150/- per month from his salary. Therefore, it goes without saying that the employer and his eligible family members are entitled to for the maximum amount of

Rs.4 lakhs within a block period of four years. While so, when he suffered severe chest pain on 30.05.2016, he was taken to Vadamalayan Hospital for treatment and after investigation and diagnosis, it was found that he had suffered Type II Diabetes Mellitus Systemic Hypertension Coronary Artery Disease - Single Vessel Disease PTCA, on the same day, left coronary was cannulated using 5 Fr EBU 3.5 guiding cather, through right artery, since the said Vadamalayan Hospital, Madurai, has been included in the approved list of private hospitals accredited for the speciality specified in Annexure II in G.O.Ms.No.243 Finance, (Salaries) Department, dated 29.06.2012. Thereafter, he was advised by the hospital authorities to take discharge from the hospital from 01.06.2016, after remitting a sum of Rs.2,34,291/-. But the third respondent has sanctioned only a sum of Rs.1,50,000/-. Therefore, the balance amount has to be remitted by the petitioner.

17. Now, the question is as to whether the petitioner is entitled to the benefit of entire medical treatment expenses of Rs.2,34,291/- or only Rs.1,50,000/-. A reading of Paragraph Nos.3 to 5 of the G.O.Ms.No.243 dated 29.06.2012 clearly shows that the employees and their eligible family members covered under this Scheme shall avail assistance upto the limit of Rs.4 lakhs in a block of four years commencing from 01.07.2012 to 30.06.2016 on a cashless model for the approved treatments and surgeries in the hospitals approved by the Insurance Company.

18. In the present case, no doubt, the Vadamalayan Hospitals are the approved hospitals for the said treatment and surgeries. Therefore, the petitioner and his family members are entitled to receive the benefit on a floater basis ie, the total coverage upto Rs.4 lakhs.

19. In view of the foregoing reasons and discussions, the first and second respondents are hereby directed to pay the balance amount of Rs.84,291/- (Rupees eighty four thousand two hundred and ninety one only) to the petitioner within a period of three weeks from the date of receipt of a copy of this order.

20. The Writ Petition stands allowed with the above direction. No costs.

Sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

1.The Principal Secretary to Government
Finance (Salaries) Department
Secretariat, Fort St. George, Chennai.

2.The Joint Director of Medical and
Rural Health Services Department
Government Hospital,Usilampatti, Madurai District

3.The United India Insurance Company Limited,
Divisional Office: 010700 first Floor,
Siling building, 134 Greams Road, Chennai

4.The General Manager,
Tamilnadu State Transport
Corporation (Madurai) Ltd.,Bye pass Road, Madurai.

+1cc to Special Government Pleader, SR.No. 71712
+1cc to M/S.A.Shahjahan, Advocate SR.No. 71541
+1cc to M/S.A.K.Thangavelu, Advocate SR.No. 70796

W.P(MD)No.18216 of 2016
07.08.2017

RR
JM/RSK/SAR 4/30.10.2017/7P/8C