BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.10.2016

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THE HONOURABLE DR.JUSTICE S.VIMALA

W.P(MD)No.19766 of 2016

P.Soman ... Petitioner

vs.

1.The Director of Treasuries and Accounts,
Panagal Building,
Saidapet,
Chennai - 600 015.
2.The District Treasury Officer,
District Treasury,
Nagercoil,
Kanyakumari District.
3.The United India Insurance Co. Ltd.,
Rep. by its Divisional Manager,
Divisional Office VI,
5th Floor, P.L.A. Rathana Towers,
No.212, Anna Salai,
Chennai - 6.
4.District Level Committee,
Rep. by Collector,
Madurai,
Madurai District. ... Respondents

Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records on the file of the 2nd respondent pertaining to its order bearing No.Na.Ka.No.21977/2015/L2-(VIII) dated 23.08.2016 and to quash the same and consequently direct the respondents to disburse the claim amount of Rs.66,060/- being the amount spent for the treatment underwent by petitioner wife C.Rajeswari.

For Petitioner : Mr.S.C.Herold Singh
For Respondents 1, 2 & 4: Mr.M.Murugan
Government Advocate

For 3rd Respondent : Mr.A.Shajahan
Standing Counsel

ORDER

This writ petition has been filed seeking a Writ of Certiorarified Mandamus, to call for the records on the file of the 2nd respondent pertaining to its order bearing No.Na.Ka.No.21977/2015/L2-(VIII) dated 23.08.2016 and to quash the same and consequently direct the respondents to disburse the claim amount of Rs.66,060/- being the amount spent for the treatment underwent by the petitioner's wife C.Rajeswari.

2.The petitioner's wife is one C.Rajeswari. She retired from Service as Secondary Grade Teacher on 31.08.2012, on attaining the age of superannuation. After her retirement, she was receiving pension. Usual deductions were also made from her pension towards Pensioner's Health Fund Scheme. On 24.07.2015, due to some emergent medical situation, she was taken to Dr.S.M.C.S.I. Medical College Hospital, Karakonam and she was discharged on 02.08.2015. The bill for the said treatment works out to Rs.22,445/-. Again on 21.09.2015, her condition has become serious and she was admitted in the said hospital and she died on 28.09.2015, due to heart attack. For the second round of treatment, the hospital charged a sum of Rs.43,617/-. As such, a sum of Rs.66,060/- was spent towards petitioner's wife's medical expenses. The petitioner made a claim to the 1st respondent for reimbursing the amount spent for medical expenses. The said claim was rejected on the ground that the treatment has been taken in a non-network hospital and the claim need not be considered as per G.O.M.S.No.171 Finance (Pension) Department, dated 26.06.2014, and letter No.34231 (Pension)/2015/1 dated 01.07.2015, issued by Finance Secretary (Pension) Department. This order is under challenge in this writ petition.

3.The learned counsel for the third respondent would submit that when the treatment has been taken in non-network hospital, the Insurance Company has been exonerated as per the decision of this Court in **Star Health and Allied Insurance Co. Ltd., rep. by its Project Officer, Tamil Nadu Government Employees New Health Insurance Scheme, Chennai v. A.Chokkar and another reported in (2010) 2 LW 90**, under which, the Government has been directed to consider the claim of the petitioner over medical reimbursement and it shall not be declined merely because the employee is a member of the Insurance Scheme. The relevant paragraph is extracted here-under:

> "28.Therefore, if the claimants have made payments whether for a procedure not covered or whether at a non-network hospital or they have paid when they have been treated for a covered procedure in a network hospital, their only remedy is to approach the Government under the Rules. If, however, before they take treatment they are

> informed that a particular procedure is not covered, then at that stage, they may approach the Rederessal Committee where the medical expert can decide whether that procedure is covered or not. The Redressal Committee may also go into the complaint regarding non-availability of facility at a network hospital, which may be available in favour of the claimant when he applies under the Rules. Otherwise, we do not think that the Redressal Committee can do much in any one of these case, since all the petitioners/claimants before us would have made payments. But, if there is a petitioner who has not settled the claim and has come before us, then, in the event, that it is for a procedure that is not covered, he may approach the Redressal Committee. In view of the fact that there are the above lacunae in the Scheme, the Government shall not deny any claim validly made under the Rules only because the claimant is a member of the Scheme”.

As per the said Judgment, it is clear that the Insurance Company is exonerated from the payment of the claim, as it is an admitted fact that the treatment was given in a non-network hospital.

4.The 2nd respondent has rejected the claim of the petitioner on the ground that treatment has been taken in non-network hospital. However, as per the above decision, the Government should not deny any claim validly made under the Rules only because the claimant is a member of the Scheme. Hence, the impugned order is liable to be set aside.

5.Accordingly, this Writ Petition is allowed setting aside the order of the 2nd respondent in Na.Ka.No.21977/2015/L2-(VIII) dated 23.08.2016. The petitioner is directed to re-present the application with medical bills before the first respondent within a period of two weeks from the date of receipt of a copy of this order, who in turn is directed to refer the same to the District Level Empowered Committee within a period of two weeks therefrom and the District Level Empowered Committee shall finalise the claim of the petitioner within a period of four weeks therefrom and forward the report to the Government and on receipt of the report from the District Level Empowered Committee, the Government will pass final orders in the light of the decision of this Court in Star Health and Allied Insurance Co. Ltd., rep. by its Project Officer, Tamil Nadu Government Employees New Health Insurance Scheme, Chennai v. A.Chokkar and another reported in (2010)2 LW 90, within a period of four weeks, thereafter. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(crl)

/True copy/

Sub Assistant Registrar

To

1.The Director of Treasuries and Accounts,
Panagal Building,
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4.District Level Committee,
Rep. by Collector,
Madurai,
Madurai District.

+1cc to Mr.S.C.Herold Singh, Advocate Sr.No.61068
+1cc to special Government Pleader SR.No.61413
+1cc to Mr.A.Shajahan, Advocate SR.No.60996

sj
sm:SKS-RR:25/11/2016:4P/8C

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