

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH
Sr. No.: 217

Civil Writ Petition No.19250 of 2015 (O & M)
Date of Decision: August 31, 2017

Karan Singh Phalswal

..... PETITIONER

VERSUS

State of Haryana & others

..... RESPONDENTS

. . .

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

. . .

PRESENT: - Mr. Abhinav Kalia, Advocate, for the petitioner.

Mr. Charanjit Singh Bakshi, Additional Advocate
General, Haryana.

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Jaspal Singh, J

1. The instant petition has been preferred by the petitioner under Article 226/227 of the Constitution of India for issuance of a writ in the nature of Mandamus, directing the respondents to reimburse his medical bills.

2. Petitioner retired from the post of Associate Professor in English in Government College, Bhiwani (respondent No.3) on attaining the age of superannuation on August 31, 2005. In the year 2007, petitioner got admitted in Indraprashta Apollo Hospital, New Delhi for treatment of Coronary Artery Disease and a device namely

Automatic Implantable Cardioverter Dafibrillator (AICD) was

implanted in his body on December 25, 2007 which lasted for seven years. The medical bill for aforesaid treatment was reimbursed by the Government after intervention of this Court through a writ petition filed by him. On September 25, 2014, petitioner suffered ventricular fibrillation. As the facility to deal with the aforesaid emergent situation was not available at Civil Hospital, Bhiwani, he had to rush to Apollo Hospital, New Delhi and admitted in its emergency ward. He remained admitted in Apollo Hospital, New Delhi from September 25, 2014 to September 30, 2014. The doctors replaced AICD generator of petitioner on September 27, 2014 as the earlier AICD had reached end of its life. He was discharged on September 30, 2014. During his hospitalization, an amount of ₹ 8,54,578/- was incurred.

3. Petitioner submitted his medical bills in the office of respondent No.3 for reimbursement which were forwarded to respondent No.2 vide memo dated October 20, 2014. Respondent No.2 returned the same vide letter dated November 17, 2014 (Annexure P-4) on the ground that since Indraprashta Apollo Hospital, New Delhi is not approved by the Government, therefore, bills may be forwarded after rectification from the Civil Surgeon to the effect that treatment was taken in an emergent situation. Civil Surgeon, Bhiwani, after examining the report of Board of Doctors, sent a letter dated December 15, 2014 (Annexure P-7) to respondent No.3 and affirmed that treatment was taken by petitioner in the Apollo Hospital in emergency. Thereafter, Respondent No.2 demanded the rates of Cath Lab

Procedure and device used in the said procedure from respondent No.4

– Director, General Health Services, Haryana, however, Respondent No.4 did not supply the same despite reminder(s)/representation. Consequently, reimbursement of medical bills is being delayed.

4. Perusal of reply dated July 26, 2016 filed on behalf of respondents by way of affidavit of Devinder Kaushik, Joint Secretary to Government of Haryana, Higher Education Department, Panchkula, shows that on receipt of information (Annexure R-1) regarding the rates of Cath Lab Procedure and AICD, reimbursement of medical claim amounting to ₹ 6,81,317/- has been sanctioned vide memo dated January 18, 2016 (Annexure R-2). The claim of the petitioner has been decided as per Government Instruction No.2/8/88-1HBIII dated May 06, 2005 which provides that reimbursement for treatment taken in emergency in an unapproved hospital will be allowed equal to PGI, Chandigarh rates with the approval of the Finance Department.

5. Now, the question which survives for adjudication is whether petitioner is entitled to reimbursement of balance amount of ₹ 1,73,261/- and what should be the rate of interest on the delayed payment of reimbursement of medical claim?

6. Heard counsel for the parties and perused record.

7. Petitioner took his treatment from Indraprashta Apollo Hospital, New Delhi from September 25, 2014 to September 30, 2014, for which, he presented his medical bill for reimbursement for an amount of ₹ 8,54,578/-. Vide Government of Haryana instructions/circular/letter No.2/26/2013-1HB-III dated June 24, 2013

and instructions dated August dated 13, 2015, 79 private hospitals were

empanelled/approved for treatment of Haryana Government servants/pensioners and their dependents but name of Indraprashta Apollo Hospital, New Delhi, does not exist. As such, the hospital from where petitioner took his treatment, is still unapproved and reimbursement of unapproved hospital is covered under Clause (4) of Haryana Government Reimbursement Policy No.2/8/88-1HBIII dated May 06, 2005 (Annexure R-I) which reads as under:-

“4. **Un approved Hospitals**

- a. The reimbursement for the treatment taken in an emergency in an unapproved hospital will be allowed equal to PGI, Chandigarh rates with the approval of the Finance Department.
- b. Head of the Department in consultation with concerned Civil Surgeon is competent to certify an emergency.”

8. So far as the reimbursement of medical claim of ₹ 8,54,578/- is concerned, an amount of ₹ 6,81,317/- has already been sanctioned vide memo dated January 18, 2016 (Annexure R-2). As regards reimbursement of balance amount of ₹ 1,73,261/-, this Court is of the considered view that petitioner is not entitled to the same in terms of Clause (4) of Haryana Government Reimbursement Policy No.2/8/88-1HBIII dated May 06, 2005, reproduced hereinbefore.

9. As regards rate of interest on delayed payment of medical claim amounting to ₹ 6,81,317/-, reimbursement was sanctioned on January 18, 2016 while the medical claim was forwarded by respondent No.3 to respondent No.2 vide office memo No.1636 dated October 20, 2014, meaning thereby, there is a delay of more than 1 ½ years in making the payment. At the most, the respondents could

have taken a period of two months for completion of the formalities

and official procedure but the amount was released on January 18, 2016. Consequently, petitioner is entitled to interest @ 9% on the delayed payment w.e.f. December 20, 2014 to January 18, 2016, which shall be paid within a period of three months from the date of receipt of certified copy of this judgment and in the event of non-compliance of the order, the petitioner shall be at liberty to approach this Court.

9. In the light of what has been discussed above, instant petition stands partly allowed but with no order as to costs.

August 31, 2017
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(Jaspal Singh)
Judge

Whether Speaking/ Reasoned:
Whether Reportable:

Yes/ No
Yes/ No