

**218 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CWP No.2886 of 2013 (O&M)
Date of decision : February 27, 2017**

Prabhash Chaitanya

..... Petitioner

Versus

State of Haryana and another

..... Respondents

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Ramneek Vasudeava, Advocate for the petitioner.

Mr. Keshav Gupta, AAG, Haryana.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
2. To be referred to the Reporter or not.
3. Whether the judgment should be reported in the digest ?

KULDIP SINGH J. (ORAL)

Onkar Nath Joshi (now deceased), father of the petitioner, retired as Accounts Officer from the office of respondent No.2 after completing 36 years of unblemished service on 31.03.1992 and expired on 02.11.2008. Smt. Kamla Joshi, mother of the petitioner was probably getting family pension. On 29.07.2011, she went to her brother's house at Jalandhar, where she suffered a severe heart-attack. Accordingly, she was removed to Chawla Health Care Centre, Jalandhar on 29.07.2011 itself in the emergency, where on 31.07.2011 CABG Operation was carried out. Ultimately, the mother of the petitioner could not survive after the said operation and she expired in the same hospital on 07.08.2011. Accordingly, the petitioner submitted medical bills amounting to ₹1,72,571/- to the respondents-Department for reimbursement. On an objection raised by the respondents-Department to submit the emergency certificate, the petitioner

obtained emergency certificate from the Civil Surgeon, Jalandhar on 09.02.2012. The said medical bills were not reimbursed despite repeated requests. Hence, the present petition was filed for reimbursement of the medical bills.

In the written statement, the respondents have not denied the submissions of medical bills and have stated that after examining the matter, the reimbursement of the medical bills to the extent of ₹23,707/- has been made on 15.05.2012 (Annexure R-2/1). The necessary sanction vide letter No.2/16/16/2012-4FA, dated 18.03.2013 was issued by respondent No.1, subject to submission of Form-B, which is necessary for e-payment of the amount of ₹23,707/-. It also comes out that as per additional affidavit of Joint Director O/o Director, Treasuries and Accounts Department, Haryana, Chandigarh, dated 10.01.2014, the respondents have given the reimbursement of medical bills as per PGI rates for angiography package, medical consumable items and CABG package and have concluded that the petitioner is entitled for medical reimbursement to the extent of ₹23,707/-.

In additional affidavit by the Joint Director O/o Director, Treasuries and Accounts Department, Haryana, Chandigahr, filed on 14.12.2015, it is further stated that the claim of the petitioner is not covered under the Policy dated 06.08.2013 (Annexure R-4) but it is covered under the Policy of 2005, as the operation took place in the year 2011 before coming into operation the Policy of 06.08.2013 (Annexure R-4).

I have heard learned counsel for the parties and have also carefully gone through the case file.

As per additional affidavit dated 14.12.2015, it is stated that the medical bills to the extent of ₹23,707/- has been reimbursed and same has been credited in the account of the petitioner on 19.03.2013.

However, learned counsel for the petitioner has denied such payment.

Admittedly, the said Chawla Health Care Centre is on the unapproved list. It is also denying fact that the treatment was taken in the emergency and the Civil Surgeon had issued emergency certificate. Now, the question would arise as to whether the petitioner is to be paid the sum at PGI rates or of the actual cost of the treatment?

In the year 2011, when the operation took place, the Policy dated 06.05.2005 (Annexure R-2/3) was in operation. As per said Policy, if a treatment is taken from unapproved hospital in emergency, the reimbursement is to be made equal to the rates of PGI, Chandigarh with the approval of the Finance Department. The said Policy of 2005 has not been challenged in the present petition.

Learned counsel for the petitioner has relied upon the Single Bench judgment of this Court passed in CWP No.14690 of 2010, titled as “*Smt. Jiwani vs State of Haryana and others*”, decided on 30.11.2011, wherein the full medical reimbursement was ordered to be released when a Driver died on duty. However, in the said case, the Policy of 2005 was neither considered nor interpreted. Therefore, the said authority cannot be treated as binding precedent.

Learned counsel for the petitioner has also relied upon the authority of Division Bench of this Court delivered in “***Mukesh Kumar***

Gupta vs Chairman, Pepsu Ropad Transport Corporation Patiala and others”, 2007(4) S.C.T. 89.

A perusal of said authority shows that it pertains to Instructions dated 21.07.2004 and the Policy of 2005 was not considered in the said case also.

Learned counsel for the petitioner has further relied upon the authority of Delhi High Court delivered in ***“K.S. Mathew vs Union of India and another, 2005(122) DLT 450.*** In the said judgment also, the Policy of 2005 of Haryana Government was never considered.

It being so, the petitioner is entitled to medical reimbursement only at the PGI rates. According to the respondents-Department, the said reimbursement has been made but the same has been denied.

Therefore, in these circumstances, the present petition is allowed to the extent that if the payment is not made already, the same shall be released to the petitioner forthwith along with interest @ 9% per annum starting from 29.02.2012 i.e. when the petitioner submitted the emergency certificate (Annexure P-5) till the date of payment. The remaining part of the claim is declined.

(KULDIP SINGH)
JUDGE

February 27, 2017

sarita

Whether speaking / reasoned Yes

Whether Reportable: Yes