

CWP No.2907 of 2014

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

**CWP No.2907 of 2014
DECIDED ON: August 16, 2017**

ANITA HOODA

.....PETITIONER..

VERSUS

STATE OF HARYANA AND OTHERS

.....RESPONDENTS..

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. Dinesh Arora, Advocate,
for the petitioner.

Mr. Siddharth Sanwana, DAG, Haryana.

JASPAL SINGH, J.

Challenge in this writ petition is to order dated 20.11.2003 (P-16) whereby medical bill claim of the petitioner has been declined as well as a writ in the nature of mandamus seeking direction to the respondents to make the payment of medical bill amounting to Rs.50,332/- and Rs.3,73,971/- (totalling Rs.4,24,303/-) submitted by the petitioner

2. Concededly, the husband of the petitioner namely Sh. Inderbir Singh developed some ailment on 23.12.2009, as a result of which, he was admitted in Sir Ganga Ram Hospital, New Delhi for treatment. He was found to be having a “locally advanced small bowel lesion cause non Hodgkin's lymphoma” for which he was operated. Thereafter, he was transferred to City Hospital associate of Sir Ganga Ram Hospital, New Delhi. Unfortunately, despite the medical

treatment given by the doctors, the husband of the petitioner could not survive and succumbed to the ailment on 17.09.2010 after having remained admitted in the aforesaid hospital from December, 2009 to September, 2010. The petitioner has earlier been getting fixed medical allowance and subsequent thereto after the death of her husband, petitioner intended to change the option with respect to the medical allowance claim. She submitted the necessary documents as well as request for change of option from fixed medical allowance to medical claim but by raising one or the other objections which though were removed, the respondents declined the reimbursement of the medical claim put forth by the petitioner vide letter dated 19/20.11.2013 (P-16). The relevant portion of the aforesaid letter/order dated 20.11.2013 (P-16) reads as under:-

“The case regarding change of option of medical allowance claim sent by Smt. Anita Hooda, Math Mistress, GSSS, Sankhol, Jhajjra, it is pointed out that:-

“As per Health Deptt. Instruction 2/307/2005-1HB-III dt. 31.01.2006, the option can be changed by H.O.D. From the date of ailment after following Health Deptt. Instruction 2/160/89-1HB-III dt. 11.08.1992 wherein the issuance of the chronic disease certificate is mandatory. But here in this case the chronic disease certificate is not issued by the concerned CMO, after the death of the patient.”

So the present case does not seems to be covered under the Govt. instructions.

Therefore, original documents of the official is returned herewith”

3. Constrained with the aforesaid non-reimbursement of medical claim, petitioner knock the door of this Court by way of instant writ petition. Various

documents available on file are suggestive of the fact that the medical claim submitted by the petitioner was returned after having remained pending for a considerable period. Number of objections were also raised, which were removed and complied with by the petitioner and ultimately, a query was raised by the Principal, GSSS, Sankhol, Jhajjar as to whether an option of medical bill claim of past 10 months can be changed vide letter dated 09.07.2013 (P-13). In response to which, District Elementary Education Officer, Jhajjar vide endorsement No.E-3-13/2340 dated 26.07.2013 sent the case back with the change of option of the medical bill claim with further direction to make the payment through recovery challan and sent the challan with the case. But even, the aforesaid order passed by the DEEO, Jhajjar fell on deaf ears and subsequently, vide impugned letter dated 19/20.11.2013 (P-16), the relief was declined.

4. The petitioner has already presented and produced the chronic disease certificate issued by the medical board and request of change of option. Though, number of objections were also raised, which were removed and complied with by the petitioner but even then the relief was declined. Such, an action on the part of the concerned officers cannot be termed to be bonafide. The husband of the petitioner took the medical treatment from Sir Ganga Ram Hospital a renowned one. He underwent surgery and remained admitted from December, 2009 to September, 2010 till his death on 17.09.2010 and subsequent thereto, the petitioner is facing the problems in the non-reimbursement of medical expenses.

5. Here, it would be pertinent to mention that State of Haryana is a welfare State. It cannot refuse reimbursement of the expenditure incurred by a

Government servant for a bonafide medical treatment and in such a situation it does not lie with the State to have an iron heart in the disbursement of the medical bills. As far as getting fixed allowance by the petitioner is concerned, it itself does not debar the petitioner from seeking the change of option which has subsequently been permitted. As far as chronic disease certificate is concerned, the same has already been granted by the competent authority i.e. the Board after having consulted Medical Board of Sir Ganga Ram Hospital. So from the various documents, it is clear that the petitioner is entitled to the medical re-imburement.

6. As an upshot of the aforesaid discussion, instant petition is allowed whereby letter dated 20.11.2013 (P-16) is quashed. The respondent(s) are directed to reimburse/pay the medical claim to the tune of Rs.50,332/- and Rs.3,73,971/- (totalling Rs.4,24,303/-) to the petitioner within a period of two months from the date of receipt of certified copy of this order, that too, along with interest @ 9% from the date of submission of change of option i.e. 25.02.2011.

7. In case of non-compliance of aforesaid direction, the petitioner shall be at liberty to have recourse to the remedies available under law as well as to approach this Court.

August 16, 2017
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(JASPAL SINGH)
JUDGE

Whether speaking/reasoned ***Yes***

Whether reportable ***Yes/No***