

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No. 4451 of 2015

Date of Decision: 09.01.2017

RAJENDER SINGH

... Petitioner

VS.

STATE OF HARYANA AND ORS

..Respondents

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present: Mr. R.S. Malik, Advocate,
for the petitioner.

Mr. Naveen Sheoran, DAG, Haryana

KULDIP SINGH, J. (Oral)

The petitioner has preferred the present writ petition under Article 226/227 of the Constitution of India for issuance of a writ in the nature of certiorari for quashing the impugned speaking order dated 11.02.2015 (Annexure P-6) wherein claim of the petitioner regarding medical reimbursement of ₹4,97,315/- and ₹ 2,28,000/- incurred while getting treatment from Sir Ganga Ram Hospital, New Delhi and City Hospital, New Delhi, was rejected. The prayer is for issuance of writ of mandamus for directing the respondents to release the amount of payment of medical reimbursement as per AIIMS/PGIMS rates alongwith interest.

Brief facts of this case are that the petitioner retired as Math Master from the Education Department, Haryana. It is stated that on 24.10.2013, the petitioner suffered Brain Hemorrhage and he was ultimately referred to Sir Ganga Ram Hospital, New Delhi where he was admitted on 25.10.2013. On investigation, brain tumor was detected. It is further stated that the said City Hospital, New Delhi is a branch of Sir Ganga Ram Hospital

CWP No.4451 of 2015

where five chemotherapies were given to the petitioner, starting from 07.11.2013. He was also treated for pneumonia. He was also operated upon for brain tumor in Sir Ganga Ram Hospital, New Delhi. The petitioner ultimately survived and filed the present writ petition. Now, the claim of the petitioner is for reimbursement of medical claim to the tune of ₹4,97,315/- and ₹ 2,28,000/- which has been declined by the respondents vide order dated 11.02.2015 (*Annexure P-6*)

The petitioner earlier approached this Court by way of Civil Writ Petition No. 23451 of 2014 in which respondents were directed to pass a speaking order on the legal notice of the petitioner. Consequently, order dated 11.02.2015 (*Annexure P-6*) was passed rejecting the claim of the petitioner which is also impugned in the present petition.

In the reply, the respondents have not denied the treatment, rather they have taken the plea that an emergency certificate was required for getting treatment in Sir Ganga Ram Hospital and City Hospital, New Delhi and that Chief Medical Officer, Sonapat has rejected the prayer of the petitioner for issuing emergency certificate saying that it is not the treatment in emergency.

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

Admittedly, the petitioner was treated up for cancer and subjected to chemotherapy and operation was done for removing the brain tumor. Sir Ganga Ram Hospital is on the approved list of the State of Haryana as per the notification dated 13.08.2015 filed today in the Court and same is taken on record, whereas, the City Hospital is not mentioned in the said list. I am of the view that even though, it is so, the emergency is not to be seen only from the

CWP No.4451 of 2015

point of view of this State but also from the point of view of the petitioner/patient also. I am of the considered view that the treatment for cancer that too of brain cancer is an emergency situation. When the life of the petitioner is in danger, he supposed to move to the best hospital which in his opinion can treat him. In the circumstances, the conduct of the petitioner i.e. moving to Sir Ganga Ram Hospital, New Delhi is natural conduct. The surgery of the brain and chemotherapy is always a treatment taken in emergency. Therefore, even if Chief Medical Officer, Sonapat did not issue the emergency certificate, it is no ground to decline the medical reimbursement to the petitioner.

In view of the foregoing discussion, the present writ petition is allowed and the respondents are directed to reimburse the medical claim of the petitioner to the tune of ₹4,97,315/- and ₹ 2,28,000/- incurred while getting treatment from Sir Ganga Ram Hospital, New Delhi and City Hospital, New Delhi, as per the AIIMS/PGIMS rates. Needless to say that for the delayed payment, the interest @ 9% per annum be paid to the petitioner. The whole payment be released to the petitioner within two months from the date of receipt of certified copy of this order.

January 9, 2017

Suresh Kumar

**[KULDIP SINGH]
JUDGE**

<i>Whether speaking / reasoned</i>	: ✓ Yes / No
<i>Whether Reportable</i>	: ✓ Yes / No