

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

LPA No.1813 of 2016 (O&M)

Date of Decision:- 13.02.2017

State of Haryana & Ors.

...Appellants

VERSUS

Bhagwat Prasad Sharma

....Respondent

**CORAM : HON'BLE MR. JUSTICE SURYA KANT
HON'BLE MR. JUSTICE SUDIP AHLUWALIA**

Present:- Mr. Deepak Balyan, Addl. Advocate General, Haryana
for the Appellants.

Mr. Naveen Singh, Advocate for the Respondent.

SUDIP AHLUWALIA, J.

The Ld. Single Judge allowed Civil Writ Petition No. 5378 of 2013 filed by the Respondent, and has directed the State of Haryana and its concerned Officers to reimburse the complete amount spent towards medical treatment of the wife of the Writ Petitioner excluding any deduction except the amount already reimbursed to him. Being aggrieved with such decision, the State of Haryana has preferred this Letters Patent Appeal.

2. Background of the matter is that the Respondent who had joined the Department of Agriculture, Government of Haryana as an Agricultural Inspector, retired from service on 31.7.2011. His wife who at the relevant time, was staying with her daughter at Noida on 4.1.2011 became suddenly serious and seeing her condition, his daughter got her admitted in the nearby Fortis Hospital, Noida on the same day. After being

initially admitted in the Emergency Ward, she was shifted to ICU Ward and remained admitted there till 10.2.2011 as an Indoor Patient. She unfortunately could not survive and died on 10.2.2011 in the Fortis Hospital while under treatment. A total amount of ₹ 1,041,840.95 was incurred by the petitioner on the treatment of his wife. His daughter had a Medi-Claim Policy through her Company, and was able to secure disbursement to the tune of ₹ 2,99,450/- in total from the Insurance Company. The petitioner paid the balance amount of ₹ 7,42,390/- from his own pocket and applied for Medical Reimbursement from his Department as per Rules. However, sanction for a meagre amount of ₹ 1,08,127/- only was accorded. He therefore, filed the Writ Petition seeking a direction upon the Respondents to reimburse the complete amount spent by him on the medical treatment of his wife excluding any deduction except the amount already reimbursed to him.

3. It was contested on behalf of the Appellants whose basic objection against the Claim was that Fortis Hospital, Noida is not on the Panel of Hospitals approved by the Government of Haryana, and so he could not be granted any amount over and above that already disbursed to him.

4. The Ld. Single Judge allowed the Writ Petition by relying on an earlier decision of this Court rendered in '***Buta Ram Vs. State of Haryana and others 2006(6) SLR 228***' in which it was held that '*in case of saving a human life at emergency, attendant is not expected to look into list of approved hospitals. Availing treatment from hospital which is not recognized by Government, in emergency, will not debar the government employee or his department to claim reimbursement as per the Rules*'.

5. The Ld. Single Judge also found that since the petitioner's wife was suffering from Chronic disease, in support of which fact, a certificate had also been issued by Dr. Sanjay K. Saxena that she was suffering from Parkinsonism with NMS with Dyselectrolytemia with seizures with septicemia with colistine induced epidermal with HTN (P-1) collectively, so her case was covered in the relevant Instructions dated 28.5.2003 and 8.6.2005, as such the Writ Petitioner did not have to again supply any information to the Respondents.

6. Earlier in the case of '***Darshan Singh Rai Versus Union of India and others***' 2008(2) S.C.T. 242, a Coordinate (Division) Bench of this Court had deprecated the attitude of the State Governments in denying the disbursement of medical treatment expenses to the Government servants, particularly those who have retired from service. The Bench had observed -

“The State cannot refuse reimbursement of the expenditure incurred by a Government servant for it is the bona fide duty of the Government to pay for the beneficial act of an employee as it is Welfare State. All the rules and regulations are to be considered in favour of the Government employee liberally and to his benefit. The State cannot be permitted to have an iron heart in such matters. It is not the plea of the respondents that the petitioner has not incurred the expenditure on his treatment. It is being noticed by this Court that quite often writ petitions are filed to obtain redress in the matter of reimbursement of medical expenses particularly by those who have retired from service, which is a sad commentary on the working style of the concerned departments and particularly of the head of those departments who must own responsibility for the indifference and delays in this regard.”

7. In the present case also, the petitioner is a retired Government servant. His wife was admittedly suffering from Chronic disease(s) and the State Authorities already had intimation of this fact. Her condition

deteriorated when she was with her daughter in Noida, where she had to be hurriedly admitted. But in spite of all the efforts to save her, she died in the concerned Hospital itself a month or so later after such admission. Therefore, applying the ratio of the aforesaid decision in ***Buta Ram (supra)*** and ***Darshan Singh Rai (supra)***, we find no illegality or impropriety in the decision of the Ld. Single Judge allowing the Writ Petition.

8. The instant appeal is therefore, dismissed without costs.

(Surya Kant)
Judge

(Sudip Ahluwalia)
Judge

13.02.2017
AS

Whether speaking/reasoned : ***Yes/No***

Whether Reportable : ***Yes/No***