

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RSA No.3274 of 2015 (O&M)

Date of Decision: 16.05.2017

Taro Devi

... Appellant

Versus

Chief Engineer, Guru Gobind Super Thermal
Plant, Rupnagar and others

... Respondents

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Sanjiv Roy, Advocate,
for Mr. Tarunvir Singh Lehal, Advocate,
for the appellant.

Mr. Mukul Aggarwal, Advocate,
for the respondents.

RAJIV NARAIN RAINA, J.

1. The substantial question which arises in this second appeal is whether claim for medical reimbursement can be declined on the ground of delay in submitting the claim. The issue is not *res integra* and is covered by the Division Bench judgment of this Court in Baljinder Kaur v. State of Punjab and others, 2008 (2) SCT 820; 2008 (2) PLR 601 : 2008 (5) SLR 16. The Division Bench considered the question in the light of the Punjab Services (Medical Attendant) Rules, 1940. This Court held that medical reimbursement claim cannot be declined on grounds of delay in submitting claims and bills. Unnecessary objections raised by the State add to the miseries of the claimants which should be avoided and substantial justice done. If the department stands cussedly impenetrable, the image of the Government is spoiled. In that case as in the present appeal the claim was

submitted by a widow for expenditure in the treatment of her deceased husband after recovering from the shock of death. The Court held that the question of limitation does not arise. In coming to the conclusion the Court applied the earlier dicta in Rajwant Kaur v. State of Punjab, 2001 (2) SCT 1035 (P&H). Late submission of bills and claims beyond six months prescribed in the rules can be offset by deprivation of interest part of the prayer. The reimbursement of medical bills is not an act of bounty and charity on the part of the State Government or the Union of India. An employee is entitled to medical reimbursement as per rules and such claim should be sympathetically viewed by the dealing assistant and officers of the department. By this attitude alone the image of the Government can improve. Negative approach should be curtailed and curbed in such like matters, spoke the Bench. Then again, in Krishna Sharma v. State of Punjab and others, 2009 (3) SCT 56 : 2009 (3) RSJ 775 relying on *Baljinder Kaur* (Supra) the principle was applied. There was a delay of three years in *Krishna Sharma* case which was overridden by the principle that limitation should not be read in such a matter against the claimant.

2. But the State of Punjab remains oblivious of the law and stoutly denied the prayer in two Courts and at to my surprise successfully. The courts below have thrown out the claim of the petitioner on delay of submission of medical bills. Kishan Singh died on March 18, 2009 and his widow Taro Devi submitted bills belatedly but requested sympathetic consideration by condoning the delay in submitting the medical bills. The Appellate Court applied Rule 28 read with Rule 58 of the Circular letter dated March 12, 1976 which require medical bills to be submitted normally

within a period of six months. In case, the medical claim bill is not submitted within six months, in that situation, if the clearing authority finds the reason of delay submitted with the bill unsatisfactory then the medical bills shall not be entertained. As a fact it was determined that plaintiff Taro Devi appeared in person before the department in their office on November 20, 2009. She was poor and illiterate and came from a rustic background.

3. While dealing with socially beneficial legislation, rules or instructions the Court should be large-hearted and should step in to give the corrective doze to the defendant criticizing its obstructionist conduct. If late Kishan Singh never submitted the medical bills in his life time it was no reason to uphold the rejection of the claim by reason of delay. Kishan Singh was a Class-IV employee and remained under treatment at PGI Chandigarh but could not survive and fell victim to his illness. The widow was compelled despite submitting the bills to approach this Court despite court rulings in her favour and against the State.

4. The lower Appellate Court held that after getting medical treatment Kishan Singh joined duties on November 12, 2008 and expired on March 18, 2009 and from there reasoned that he had reasonable time and opportunity to submit the medical bills to his department. Since he failed to submit the same then there is no cogent explanation for delay and no such explanation has come on record. This I am sad to say is perverse reasoning which cannot sustain in law or on fact. This is viewing the issue from a wrong and narrow angle and applying technicalities in instructions to defeat a just claim. The rule as it is worded is not even mandatory nor could be interpreted strictly regarding submission within six months. The authority

had inbuilt power to condone delay and, therefore, the rule is clearly directory in nature when it uses the word 'ordinarily'.

5. As a result of the discussion, the appeal is accepted and the judgments and decrees of the Courts below are set aside. The suit is decreed. The amount of medical bills due be calculated as per rules and paid to the plaintiff-appellant within three months from the date of receipt of certified copy of this order. The appellant also shall have costs on this appeal assessed at ₹25,000/- to be paid by the department in addition to the medical claim reimbursable by those who rejected the claim so that the State is compensated for the palpable and manifest wrong committed by its apathetic functionaries. The same be paid at the time of discharge of debt within the same time-frame as above, together with the sum determined.

(RAJIV NARAIN RAINA)
JUDGE

16.05.2017

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Whether speaking/reasoned Yes

Whether reportable No