

HIGH COURT OF CHHATTISGARH AT BILASPUR**Writ Petition (S) No. 906 of 2009**

Balram Prasad Shukla, Assistant Teacher, S/o Shri Bhagwat Deen Shukla, aged about 51 years, R/o Kully, PO Bachhod, Tahsil Masturi, District Bilaspur (CG)

---- **Petitioner**

Versus

1. State of Chhattisgarh, Public Health and Family Welfare, Medical Education Department, Ministry DKS Bhawan, Raipur, District Raipur (CG)
2. Sanchalak, Sanchanalaya Medical Education, District Raipur (CG)
3. Chief Medical and Health Officer, Bilaspur (CG)
4. Block Education Officer Masturi, Tahsil-Masturi, Distt. (CG)

---- **Respondents**

For Petitioner : None

For Respondent/State : Shri Ashutosh Pandey, P.L.

Hon'ble Shri Justice P. Sam Koshy

Order On Board

03/08/2018

Since the writ petition was about 10 years old pending before this Court and the matter also that of being medical reimbursement, this Court thought it fit for finally deciding the writ petition taking assistance of Shri Ashutosh Pandey, P.L. representing the respondents.

2. The petitioner has filed this writ petition seeking for a direction to the respondents for reimbursement of the medical expenses that he undertook for his treatment at Bokhard Hospital, Nagpur.

3. The record shows that the petitioner was working as an Assistant

Teacher at Primary School, Kully Post, Bachhod, Tahsil Masturi, District Bilaspur. While working at the said post, the petitioner suffered from some serious ailment and taking into consideration the need of the hour, the petitioner who was working with rural back ground was immediately rushed to a hospital at Nagpur i.e. Bokhard Hospital where he underwent treatment and in the course, he incurred medical expenses of Rs.96,142/-. Subsequent to his treatment, the petitioner raised a claim for reimbursement of the said amount. The documents enclosed with the writ petition as well as the reply would reveal that the immediate higher officers in the Department had recommended the claim of the petitioner for making medical reimbursement. Annexure P-2 is a certificate issued from the Block Education Officer. Likewise, Annexure P-3 dated 09.03.2006 is a recommendation made by the Director, Medical Education (CG). The Block Education Officer as well as the Director, Medical Education both had considered and found the ailment which the petitioner suffered to be serious in nature and which needed urgent specialized treatment. The record also shows that Annexure P-4 dated 15.02.2006 is an order passed by the Chief Medical and Health Officer, Bilaspur which pertains to recommendation for grant of ex post facto approval. Likewise when the reply of the respondents is perused, it appears that except for the objection raised by the finance department that too to the extent that the hospital from where the petitioner undertook medical treatment was not a recognized hospital for the purpose of medical reimbursement, all other authorities in the department were in fact in favour of making the medical reimbursement to the petitioner of an amount of Rs.96,142/-.

4. Under the circumstances, the only issue which now requires

consideration by this Court is whether the rejection of medical reimbursement of the petitioner from a non recognized hospital at Nagpur is justified or not.

5. The documents enclosed with the writ petition and which is not disputed by the State counsel also would reveal that the petitioner was suffering from hyper tension cum thrombosis coupled with the fact that he was a a diabetes patient. Since the petitioner was posted at a rural back ground, he took some medical treatment at local level. It also appears from the note sheet of the State Govt. as is reflected from Annexure R-2 that the petitioner had also suffered from some heart ailment for which also he thought it fit for getting a specialized treatment and therefore without waisting further time immediately rushed the Bokhard Hospital at Nagpur where he undertook treatment for all his serious treatment.

6. True it is that the rules applicable i.e. Chhattisgarh Civil Services (Medical Attendance) Rules 58 permits reimbursement of only the treatment undertaken from a recognized hospital. However, what cannot be lost sight of the fact is that at times, employees like the present patient are posted at rural areas far away from recognized super specialty hospital and in any case they would have to travel for a considerable period of time for reaching the recognized super speciality hospital. Under the circumstances, at times, the dear and near ones of the patient take a decision for taking the patient to the nearest convenient super speciality hospital for immediate medical attention as in the present case.

7. From the aforesaid averments particularly Annexure R-2, the note sheet of the State Govt. it reveals that the petitioner was severely

inflicted with thrombosis and was also detected for heart ailment. It was under this circumstance he was taken to a hospital at Nagpur for specialized treatment. Nagpur being a station which can be conveniently and promptly reached both by road as well as train, if the dear and near ones of the patient took him to Nagpur, they cannot be penalized for not taking medical treatment from a recognized hospital. There are situations where decisions are mostly taken by the near relatives of the patient who may not be fully aware of the Govt. rules pertaining to medical reimbursement and who are more concerned with the early recovery of the patient and with that hope they rush the patient to a private hospital which may not be a recognized. Under this circumstance also, the patient should not suffer for the expenses that he incurred in the case of his treatment.

8. In the instant case, what cannot be ignored is the fact that it is not the case of the respondents that the petitioner was not detected of any such ailment neither is the stand of the State Govt. that the petitioner has not undergone such treatment from Bokhard hospital at Nagpur. To add strength to the aforesaid, there is also recommendations in favour of the petitioner from his immediate superior so also from the Chief Medical and Health Officer of the District and also from the Director, Medical Education.

9. Given the facts and circumstances of the case, if in the event of emergent situation which led to the petitioner taking treatment from an private hospital, rejection of his claim for reimbursement on the premise that the treatment has been taken from a private hospital, not recognized or approved by the State Govt. is not sustainable. The State Govt. is always considered as a model employer. If there is no doubt or dispute

so far as the ailment and the treatment undertaken is concerned, non making of reimbursement under such circumstances would be too harsh a decision. The Supreme Court in the case of Consumer Education & Research Centre and others Vs. Union of India and others reported in (1995) 3 SCC 42 in paragraphs 22 & 27 held as under:

“22.The jurisprudence of personhood or philosophy of the right to life envisaged under Article 21, enlarges its sweep to encompass human personality in its full blossom with invigorated health which is a wealth to the workman to earn his livelihood to sustain the dignity of person and to live a life with dignity and equality.

27. Therefore, we hold that right to health, medical aid to protect the health and vigour to a worker while in service or post retirement is a fundamental right under Article 21, read with Articles 39(e), 41, 43, 48A and all related Articles and fundamental human rights to make the life of the workman meaningful and purposeful with dignity of person.”

10. The view of this Court further stands strengthened from a couple of decisions of this Court i.e. WPS No. 1212/2013 decided on 28.08.2017 and WPS No. 2365/12 decided on 19.03.2013.

11. In view of the aforesaid legal decisions as well as factual circumstances of the case, the present petition deserves to be and is accordingly allowed. It is ordered that the respondents shall promptly take all measures for reimbursement of the medical expenses which the petitioner had incurred to the tune of Rs.96,142/-. Let this exercise be done at the earliest preferably within a period of 90 days from the date of receipt of the order of this Court.

Sd/-
(P. Sam Koshy)
Judge