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HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (S) No. 5797 of 2011**

Patrick Kerketta S/o Shri Samuel Kerketta, aged about 47 years, occupation service, working as Nazir in the office of District Consumer Dispute Redressal Forum, Raipur, resident of Chhattisgarh Colony, Tikrapara, Raipur, CG

---- Petitioner**Versus**

1. State of Chhattisgarh, through the Secretary, Department of Health and Family Welfare, DKS Bhawan, Mantralaya, Raipur
2. District Consumer Redressal Forum, Raipur through the Office Superintendent, District Consumer Redressal Forum, Raipur

---- Respondents

For Petitioner	:	Ms. Prachi Agrawal on behalf of Shri B. P. Sharma, Advocate
For Respondent/State	:	Shri Ashutosh Pandey, Panel Lawyer

Hon'ble Shri Justice P. Sam Koshy**Order On Board****29.06.2018**

The present writ petition has been filed assailing the action on the part of the respondents in not allowing the claim of the petitioner for medical reimbursement of the expenses met by the petitioner for treatment of his son who had met with an accident and underwent treatment at Ramkrishna Care Hospital, Raipur which is an approved hospital for the purpose of reimbursement for state government employees.

2. The case of the petitioner is that his son Anjay Kumar Kerketta

met with an accident on 27.06.2010 and in the accident, he suffered serious injuries on his hand in as much as one of his ancillary veins got cut from glass. Taking into consideration the gravity of injury and also the excessive bleeding that took place at that moment of time, the persons who had gathered at the accident place took the son of the petitioner to nearest hospital that was Ramkrishna Care Hospital where he underwent treatment for a considerable period of time. In the course of treatment, the petitioner incurred expenses of Rs.2,37,721/-. The petitioner subsequently moved an application for reimbursement of the said money from State Govt. as per the entitlement of government employees. However, the respondent State refused to honour the bills on account of the fact that there was no referral in favour of the petitioner or his son before admitting his son at Ramkrishna Care Hospital which otherwise is a private hospital. The second ground for refusing to honour the bills was that the petitioner has failed to show the emergent situation which compelled them to take the patient to Ramkrishna Care Hospital and that the medical bills have not been supported with admit and discharge certificate and other relevant documents.

3. So far as the second ground is concerned, counsel for the petitioner submits that they have all the relevant documents still available with them and if required, the same can be made available to the concerned officer for necessary approval.

4. So far as the second ground is concerned, this Court is of the opinion that once when there is no dispute regarding the hospital from where treatment has been obtained which otherwise is an approved

hospital for reimbursement part for the state government employees, secondly there being no dispute as regards the accident, in which the son of the petitioner had suffered on 27.06.2010 and the nature of injury also is explicit from the record available with Ramkrishna Care Hospital, merely because the referral papers were not prepared prior to his admission in private nursing home by itself should not be a ground for refusing to honour the bills for reimbursement. The State is considered to be a model employer and it is always accepted that the State would take care of its employees and would render all necessary assistance which an employee otherwise is entitled for particularly on the medical front. Medical attentions at times are such where people considering the need of the hour prefers go to a private hospital where the patient has more confidence on the medical team and also the course of treatment provided and it is in this regard, that the State Government has for the purpose of reimbursement approved many private hospitals within and outside the State of Chhattisgarh from where government employees would be entitled for reimbursement of the expenses incurred in the course of treatment.

5. Since all the facts in the instant case are admitted as regards the petitioner being a government employee, he being entitled for reimbursement of the medical expenses, the son of the petitioner having met with an accident as a result of which sustaining grievous injuries and lastly the treatment having been undertaken at Ramkrishna Care Hospital, this Court does not find any good reason on the part of the State to refuse honour the medical bills put forth by the petitioner.

6. At this juncture, it would be relevant to refer to a decision of the coordinate Bench of this Court in the case of Jitendra Singh Jangi Vs. State of Chhattisgarh and others decided on 28.08.2017 in WPS No. 1212 of 2013 where in paragraph-7 it has been held as under:

“7. It was only after this report that the petitioner was taken to Nagpur and admitted in private hospital where he was operated upon. Document relating to treatment, operation submitted by the petitioner are beyond dispute. All those documents, unmistakably, show that the petitioner had suffered cerebral haemorrhage and he had also undergone surgical process of his brain for removal of clot. If this medical papers are not in dispute, it is very clear that there was an emergent situation. To say, even after the petitioner had suffered cerebral haemorrhage, yet it was not a case of emergency, is not supported by any material filed by the respondent. It appears that the case of the petitioner was not dealt with in a proper manner. Therefore, the impugned order cannot be sustained. The matter is remitted to the competent authority for consideration of reimbursement of the petitioner as per circular Annexure R/2 after due scrutiny of the bills of the petitioner. Taking into consideration that the petitioner has now retired, decision shall be taken within a period of 60 days and whatever amount is found reimbursable, shall be paid to the petitioner at the earliest. In the case of Suman Rakheja Vs. State of Haryana and another (supra), it was held -

“4. Counsel for the appellant submitted that in similar case (Annexure P-4) i.e. by the order of the High Court of Punjab and Haryana in Sant Prakash v. State of Haryana where in an emergency case the patient had to be immediately admitted in hospital, the relief has been granted. In the present case also the appellant's husband had to be rushed to the private hospital because he had developed a paralytic stroke on the left side of the body, as there was blood clotting on the right side of the brain and therefore, was admitted in

an emergency condition in the hospital. In the present case the discharge certificate also shows that the case was an emergency one. In Sant Prakash case the Division Bench held that the petitioner therein would be entitled to 100% medical expenses at the AIIMS rates and 75% of the expenditure in excess thereto.

5. In the result, in this appeal also, the appellant herein would be entitled to get the refund of the amount of 100% medical expenses at the AIIMS rates and 75% of the expenditure in excess thereto.”

7. A similar view has also been taken by another Bench of this Court in the case of Arun Kumar Upadhyay Vs. State of Chhattisgarh and others decided on 29.09.2015 in WPS No. 154 of 2015 where in paragraph-11 it has been held as under:

“11. It is thus settled that self-preservation of one's life is the necessary concomitant of the right to life enshrined in Article 21 of the Constitution of India. When the Rules permit for claiming reimbursement on account of illness of dependent family members, such right under Article 21 extends to such eligible family members for treatment of whom expenses have been incurred. Therefore, if there was an emergency and the petitioner had to rush to the Chandulal Chandrakar Memorial Hospital, a specialized and recognized medical institution by the State Government, it cannot be said that the petitioner has committed such lapses which cannot be regularized. As a matter of fact, Rule 11 of the Rules, 2013 makes a provision to deal with such situation. If the respondents had any difficulty in processing the claim for reimbursement, they could have informed the petitioner about requirement of obtaining post-facto sanction under Rule 11. Instead, claim has been rejected by referring to Rules, 1958 which stood repealed under Rule 20 of the Rules, 2013.”

8. In view of the aforesaid decisions of the coordinate Bench of this

Court and also taking note of the reservations made in the preceding paragraphs, this Court is of the opinion that refusal on the part of the respondents in not clearing medical bills for reimbursement put forth by the petitioner is bad in law.

9. Accordingly, it is directed that subject to the petitioner's producing all relevant documents in respect of treatment including admission and discharge certificate, respondent no.1 shall take prompt steps ensuring that the medical expenses incurred by the petitioner in the treatment of his son be reimbursed to the permissible limit, at the earliest preferably within a period of 60 days from the date of receipt of certified copy of this order.

10. The writ petition accordingly stands allowed and disposed of.

**Sd/-
P. Sam Koshy
Judge**