

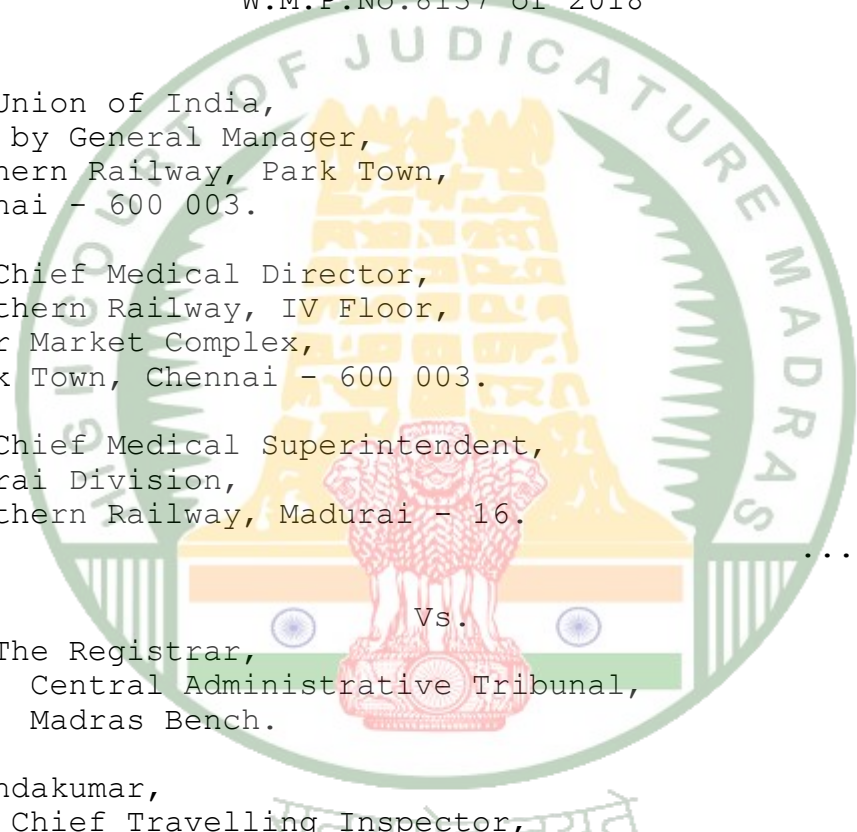
IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 26.11.2018

Coram

The Hon'ble Mr.Justice M.M.Sundresh
and
The Hon'ble Justice Krishnan Ramasamy

Writ Petition No.6543 of 2018
and
W.M.P.No.8137 of 2018

- 
1. The Union of India,
rep. by General Manager,
Southern Railway, Park Town,
Chennai - 600 003.
2. The Chief Medical Director,
Southern Railway, IV Floor,
Moor Market Complex,
Park Town, Chennai - 600 003.
3. The Chief Medical Superintendent,
Madurai Division,
Southern Railway, Madurai - 16.Petitioners
- Vs.
1. The Registrar,
Central Administrative Tribunal,
Madras Bench.
2. C.Nandakumar,
Chief Travelling Inspector,
Virudunagar Junction,
Southern Railway, Madurai.Respondents

Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorari to call for records of the first respondent/Tribunal in O.A.No.310/00241 of 2015, dated 16.03.2017, and to quash the same.

For Petitioners : Mr.M.Vijay Anand
For Respondent-1 : Tribunal
For Respondent-2 : Mr. L.Chandrakumar

O R D E R

(Order of the Court was delivered by Krishnan Ramasamy,J.,)

Heard, Mr.M.Vijay Anand, the learned counsel appearing for the petitioners and Mr. L.Chandrakumar, the learned counsel appearing for the second respondent.

2. This Writ Petition has been filed by the petitioners, viz., the Southern Railway against the order passed by the Central Administrative Tribunal, (hereinafter, referred to as 'CAT') in O.A.No.310/00241 of 2015, dated 16.03.2017, in and by which, the claim made by the second respondent has been allowed.

3. The case of the petitioners is that the second respondent was recruited under the Sports Quota as a Ticket Examiner, in the year 1979 and thereafter, by duration of service, attained the Chief Ticket Inspector. While in service, due to illness, the second respondent was admitted at Railway Hospital, Madurai on 25.04.2013 as an inpatient.

4. Further, the second respondent was initiated treatment on the line of Lumbar Radiculopathy, and underwent all essential examinations, i.e. MRI Lumbar Sacral Spine and Dorso Lumbar Spine; CT Brain, X-ray of Lumbar Sacral Spine and Cervical Spine to find out the exact cause for his illness. To ascertain the status of the disease, opinion of the Orthopaedician was also obtained. During the process of examination, the second respondent had further progression of symptoms and he was diagnosed as a case of Poly Radiculo Neuropathy (GBS) and therefore, they asked for Neurologist's opinion.

5. According to the petitioners, as per the C.G.H.S. norms, the treatments were provided by the third petitioner to the second respondent. However, as against the statutory instructions contained in the Medical Manual issued by the Railway Board, the second respondent did not wish to continue treatment at Railway Hospital, Madurai.

6. The petitioners admitted the fact that in case of critical and emergency situation, the Doctors of Railway Hospital would normally refer the patients to a private Hospital for further treatment. Further, if the Doctors found that the treatment for a particular disease is not possible in the existing Railway Hospital, then, the duty Doctors will discuss with two other Chief Doctors and Chief Medical Superintendent, and thereafter, they would refer the patient to a nominated Hospital.

7. The learned counsel appearing for the petitioners submits that the Doctors attached to Railway Hospital, Madurai, have not referred the second respondent to the private Hospital for further treatment as real emergency. Further, the second respondent was not given any treatment under emergency condition when he was discharged from the Railway Hospital. The petitioners have admitted the fact that treatment under emergency care was provided to the second respondent in the private Hospital from 03.05.2013 to 23.05.2013, under ventilation support and thereafter, in IRCU for 7 days. The petitioners have also admitted the fact that they have reimbursed a sum of Rs.4,78,996/- to the second respondent out of the total claim of Rs.13,33,768/-.

8. It is the case of the second respondent that from 24.04.2013, he was admitted in the Railway Hospital by his wife due to the fact that he lost his senses. The Doctors attached to the Railway Hospital administered an Neurobion injection. Despite the same, the condition of the second respondent was weakened and he was admitted as an inpatient in the Railway Hospital from 25.04.2013. As the second respondent's health condition got deteriorated, and he lost his conscience, the second respondent's wife chosen to shift him to a private Hospital as the Railway Hospital Doctors were not able to improve the condition of the second respondent and admitted him in Meenakshi Hospital and Research Centre, Madurai, wherein, it was diagnosed that the second respondent is suffering from Gullian Barre Syndrome Hyperglycemia (GBS). The second respondent also obtained a certificate from the Consultant Neuro Physician, attached to Meenakshi Hospital and Research Centre, Madurai, wherein, it is stated that the treatment from 28.05.2013 to 07.06.2013 was essential to save the life of the second respondent, and in this connection, it would be apposite to refer to the contents of the said certificate, which is reproduced herein below:-

" To Whomsoever it may concern

This is to certify that Srl. C. Nandakumar, residing at No.44, Narmadha Street, Velmurugan Nagar, Madurai 625016, was admitted to our Hospital on 26.04.2013 diagnosed and treated for GBS (Gullian Barre Sndrome) on 07.06.2013. He was put on ventilator support from 03.05.2013 to 23.05.2013 and in IRCU upto 28.05.2013. Thereafter, he was shifted to ward for tracheostomy closing, swallowing therapy, physiotherapy and food tube removal upto 07.06.2013. Hence, the treatment from 28.05.2013 to 07.06.2013 was essential to

save his life. At that time of discharge, the patient cannot sit without support"

9. Therefore, according to the second respondent, there was an emergency situation, and that was the reason, why he was shifted from the Railway Hospital, Madurai to the private Hospital, viz., Meenakshi Hospital and Research Centre, Madurai, wherein, he was given ventilation support from 03.05.2013 to 23.05.2013 and in IRCU upto 28.05.2013. Thereafter, he was shifted to ward for tracheostomy closing, swallowing therapy, physiotherapy and food tube removal upto 07.06.2013. Therefore, the treatment from 28.05.2013 to 07.06.2013 was essential to save the life of the second respondent. Thus, while undergoing such treatments, the second respondent incurred a sum of Rs.13,33,768/- towards medical expenditure. Therefore, he made a claim for medical reimbursement of the said sum, out of which, the petitioners also reimbursed a sum of Rs.4,78,994, though they have denied to reimburse the balance of Rs.8,12,957/- under the pretext that his case does not fall within the definition of the term "Emergency", as per the instructions issued by the Railway Board, as such, they have not referred him to a private Hospital for further treatment on account of any emergency condition. However, subsequent to the rejection of the claim, the second respondent filed an Original Application before the CAT and the CAT allowed the Application vide its order, dated 16.03.2017, and held that the applicant (second respondent herein) is entitled to the full reimbursement of Rs.13,33,768/- and consequently, directed the respondents (petitioners herein) to reimburse the balance of Rs.8,12,957/- Hence, the second respondent is entitled for the balance sum of Rs.8,12,957/- from the petitioners.

10. It is an admitted fact that there was an emergency situation, therefore, the second respondent was shifted from the Railway Hospital, Madurai to the private Hospital, viz., Meenakshi Hospital and Research Centre, and monitored under a ventilation from 03.05.2013 to 23.05.2013 and in IRCU upto 28.05.2013. While that being the fact, it is rather unfortunate, as to how, the Doctors attached to the Railway Hospital have not forecast the imminent danger, inspite of various tests conducted by them, which will occur to the second respondent and they have not treated the said anticipated occurrence as a real emergency. In fact, the petitioners ought to have anticipated such condition, at the time, when the second respondent was admitted in their Hospital, for, even at the time of admission, the second respondent was totally in an unconscious state and his health condition was deteriorating. This was the admitted position, but still the Doctors failed to anticipate the seriousness of the illness suffered by the second respondent, without permitting the second respondent to refer

him to a private Hospital. In spite of several tests conducted by the third respondent Railway Hospital, the Doctors were not able to find out the seriousness of the disease suffered by the second respondent. So, this would show that the Railway Hospital does not have any facility to diagnose the disease of the second respondent. Therefore, the situation occurred for the second respondent was an emergency in nature and the Doctors should have referred him to the private Hospital in spite of holding him back to the Railway Hospital. On the other hand, the second respondent himself discharged and admitted in the Private Hospital and it would prove that the case of the second respondent was an emergency in nature and this was the reason why he was admitted in the Private Hospital and under ventilation support from 03.05.2013 to 23.05.2013, and thereafter, in IRCU for 7 days.

11. Therefore, we hold that the second respondent's case was an emergency in nature. The petitioners having paid a sum of Rs.4,78,994/- out of the total claim of Rs.13,33,768/- towards medical reimbursement, we hold that the petitioners are liable to reimburse the balance sum of Rs.8,12,957/- within a period of four weeks from the date of receipt of a copy of this order to the second respondent.

12. Hence, we do not find any infirmity in the order passed by the Central Administrative Tribunal. Accordingly, the Writ Petition fails and the same is dismissed as being devoid of merit. No costs. Consequently, connected Writ Miscellaneous Petition is closed.

Sd/-
Assistant Registrar (CS-VI)

//True copy//

सत्यमेव जयते
Sub Assistant Registrar

sd

To

1. The Registrar,
Central Administrative Tribunal,
Madras Bench.
2. The General Manager,
Southern Railway, Park Town,
Chennai - 600 003.

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3. The Chief Medical Director,
Southern Railway, IV Floor,
Moor Market Complex,
Park Town, Chennai - 600 003.
4. The Chief Medical Superintendent,
Madurai Division,
Southern Railway, Madurai - 16.

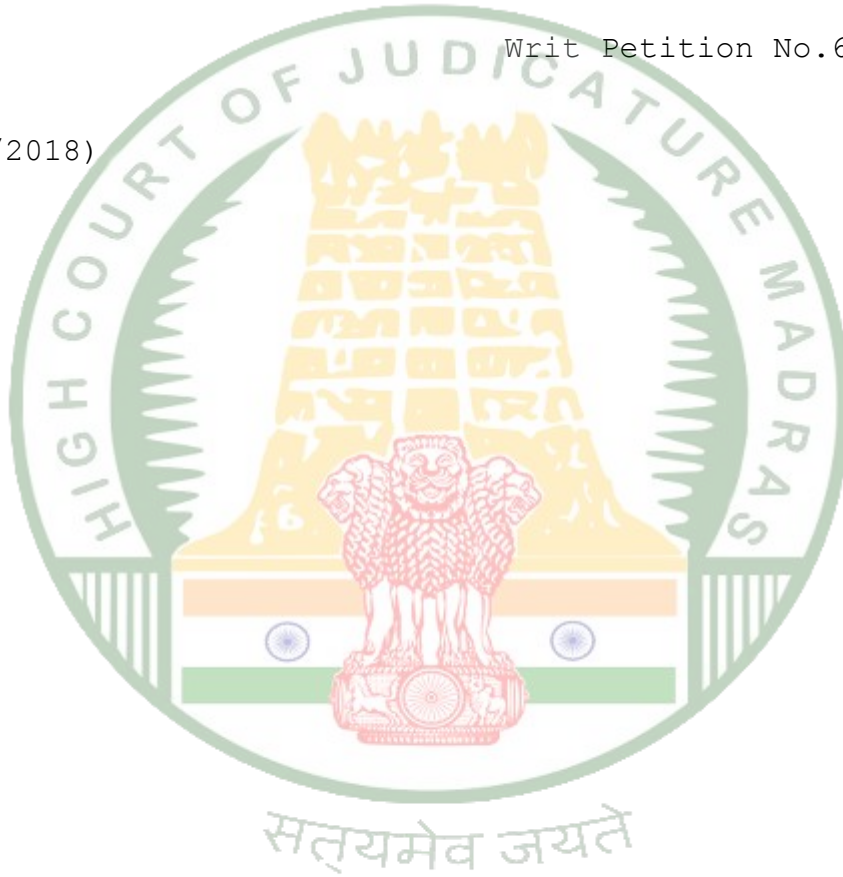
+1cc to Mr.L.Chandrakumar, Advocate SR.No.80530

+1cc to Mr.M.Vijayanand, Advocate SR.No.80540

Writ Petition No.6543 of 2018

SSV(CO)

GMV (28/12/2018)



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