

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.2.2018

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

W.A.No.62 of 2018
and
C.M.P.No.451 of 2018

United India Insurance Co Ltd.,
Divisional Office,
5th Floor, PLA Rathina Towers,
No.212, Anna Salai, Chennai 600 006.

Appellant/5th Respondents

Versus

1. S.Karunanithi
2. State of Tamil Nadu by its
Secretary to Government
Department of Finance, Secretariat,
Fort St. George, Chennai 600 009.
3. The Director of Treasuries and Accounts,
Second Floor, Panagal Building,
Jeenish Road, Saidapet, Chennai 600 015.
4. The District Collector,
Office of the Collector,
Thirunelveli, Thirunelveli District.
5. The Treasury Officer (PO),
District Treasury, Thirunelveli Town
and District.

Respondents/Petitioner

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 13.7.2017 passed in W.P.No.6893 of 2017 on the file of this court.

WP.6893 of 2017 Prayer: Petition filed under Article 226 of the constitution of India praying to issue a Writ of Certiorarified mandamus, to call for records of third respondent pertaining to

proceedings Na.Ka. NO.8685/ 2014/N1 dated 8.8.2014 and Na.Ka. NO. 13146/ 2016/ N1 dated 24.8.2016 and quash the same and direct the respondents 1 to 3 to disburse with the medical expenses amount under the New Health Insurance Scheme 2014 for pensioners (including spouse)/ Family Pensions petitioner within the stipulated time.

For appellant : Mr.S.Arunkumar for
Mr.P.Sankaranarayanan
for R1 Krishnaveni

For RR 2 to 5 : Mr.P.S.Sivashanmugasundaram,
Special Government Pleader

JUDGMENT

(Judgment of the court was made by HULUVADI G.RAMESH, J.)

Heard the learned counsel appearing for the parties.

2. The writ appeal has been filed by the Insurance Company challenging the order passed by the learned Single Judge in allowing the writ petition and thereby directing the appellant to settle the claim made by the first respondent/writ petitioner.

3. It appears that the insurance claim made by the first respondent, a retired Inspector of Police, covered by the New Health Insurance Scheme, for having taken treatment for his wife for her ailment viz., Cancer, was denied to be settled by the appellant-Insurance Company on the ground that the Hospital where the treatment was taken was not under the coverage of the policy as per the bipartite agreement between them and the Government of Tamil Nadu.

4. The learned Single Judge allowed the writ petition, rightly appreciating the factum of exigency in taking treatment and expressing displeasure with regard to the manner in which the claim of the retired employee was denied on mere technicalities. Further, as rightly held by the learned Single Judge, the right to life is a fundamental right enshrined in Article 21 of the Constitution of India and as a course of assuring such right, providing medical assistance to its employees in a prompt manner is also a bounden duty of the Government.

5. In the above backdrop, we are of the view that the Insurance Company, having collected premium and entered into a contract with the Government assuring the reimbursement towards medical expenses, cannot escape from its liability merely on too technicalities. The stipulations and restrictions imposed

by the Insurance Company with regard to coverage of certain hospitals and certain diseases alone ignoring any exigencies that would give rise for taking treatment to rescue the precious life of the employees/retired employees and acceptance of such restrictions by the Government being the other party to the contract, cannot be taken advantage by the Insurance Company to shirk its liability much less the responsibility in serving the real beneficiary by giving Hobson's choice.

6. Therefore, we are of the view that the insurance company cannot absolve of its liability for want of one or other reason. The order passed by the learned Single Judge does not require any interference. The writ appeal sans merit and is accordingly, dismissed. The appellant is granted two weeks from the date of receipt of a copy of this judgment to settle the claim. We are also not inclined to show our indulgence in granting any liberty to the appellant-Insurance Company to seek any reimbursement from the Government after settling the claim. No costs. The connected miscellaneous petition is also dismissed.

Sd/-
Assistant Registrar (CO)

//True copy//

Sub Assistant Registrar

ssk.

To:

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5. The Treasury Officer (PO),
District Treasury, Thirunelveli Town
and District.

Copy TO

The Section Officer,
Accounts Section, High Court,
Madras.

+1cc to Mr.P.Sankaranarayanan, Advocate SR.No.12055

+1cc to Mr.M.Krishnaveni, Advocate SR.No.11936

+1cc to Government Pleader SR.No.12501

W.A.No.62 of 2018

GJ(CO)
GN(20/03/2018)



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