IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED 13.02.2018
CORAM
THE HONOURABLE Mr.JUSTICE T.RAJA

W.P.No.25362 of 2017

K.Kumararaja ... Petitioner

Vs

1.The Government of Tamil Nadu,
Rep. by its Secretary,
Rural Development & Panchayat Department,
Fort St. George, Chennai-9.

2.The District Collector,
Erode District.

3.The Commissioner,
Kodumudi Panchayat Union,
Erode.

4.The Joint Director [Health],
Government Hospital Campus,
Erode.

5.M/s.United India Insurance Co. Ltd.,
Divisional Office,
5th Floor, PLA Rathna Tower,
212, Annasalai, Chennai-6. ... Respondents

Writ Petition filed under Article 226 of The Constitution of India seeking for issuance of Writ of Mandamus directing the respondents 1 to 3 to reimburse the medical expenses of Rs.2,55,356/- incurred by the petitioner for taking medical treatment at M/s.Sudha Hospital, Erode with interest at the rate of 9% from 05.01.2017 i.e., the date of payment made by the petitioner to the hospital till date of reimbursement made to the petitioner within the time fixed by this Hon'ble Court.

For Petitioner : Mr.I.C.Vasudevan

For Respondents : Mr.V.Kadhirvelu,Spl.G.P. for R1,R2 & R4

: Mr.P.Sankaranarayanan, Standing Counsel for R5
R3-NA

O R D E R

The Writ Petition is filed seeking to issue a Writ of Mandamus, directing the respondents 1 to 3 to reimburse the medical expenses of Rs.2,55,356/- incurred by the petitioner for taking medical treatment at M/s.Sudha Hospital, Erode, with interest at the rate of 9% from 05.01.2017 i.e. the date of payment made by the petitioner to the hospital till date of reimbursement made to the petitioner within the time fixed by this Court.

2.According to the petitioner, he is working as Jeep Driver in the 3rd respondent office and joined duty on 12.12.2007. While so, on 02.01.2017 at 3.30 p.m. while he was on duty, he suffered severe heart attack and immediately, he was admitted in M/s.Sudha Hospital, Erode, in order to save his life as in-patient in a serious condition. He has undergone Angio Blast and three stents were also placed in his heart. Thereafter, he was discharged from the hospital on 05.01.2017. At the time of his discharge, he paid the total medical expenses of Rs.2,55,356/- to the said hospital.

3.Further according to the petitioner, he is covered by the New Health Insurance Scheme 2012 of the Government of Tamil Nadu through G.O.Ms.No.169, dated 9.6.2016 and G.O.Ms.No.202 dated 30.06.2016, which provide health care assistance to the employees of Government Departments, Public Sector Undertakings, Statutory Boards, Local Bodies, State Government Universities with provision to avail assistance up to Rs.4,00,000/-. Hence, the petitioner made an application seeking reimbursement of the medical expenses incurred by him for his treatment from the 5th respondent M/s.United India Insurance Company Limited as the insurance premium is being regularly deducted from his salary. However, the 2nd respondent herein informed the petitioner by his Office Letter dated 24.07.2017 stating that the petitioner took the treatment in a Non-Network Hospital, which was not approved by the above said Scheme. Hence, the present Writ Petition.

4.Heard the learned Counsel on either side.

5.The issue whether the treatment taken by a Government Servant from Non-Network Hospital is liable to be reimbursed to the said person has already been answered by this Court in a decision in N.Raja Vs. The Government of Tamil Nadu, rep. by its Secretary, Adi Dravidar Welfare Department, Fort St. George, Chennai-9 and 2 others reported in 2016 (3) CTC 394 and in yet another unreported decision in S.Dhanalakshmi Vs. The Government of Tamil Nadu rep. by its Secretary, Fort St. George, Chennai-9 and 3 others in W.P.(MD) No.13159/2015 dated 12.10.2015. It is relevant to extract paragraph No.6 of the decision reported in 2016 (3) CTC 394 hereunder:

> ''6.The treatment taken by the petitioner is not under dispute. In my considered opinion, in the emergency, the petitioner cannot be asked to search a network hospital listed out in the Government Order. The petitioner's claim for medical reimbursement was negatived by the Insurance Company only on the ground that the petitioner has taken treatment in a non-network hospital. It is apt to mention that in various decisions of

this Court, it has been held that the trauma undergone by an applicant for performing surgery either for himself or for his family members cannot be described at all. However, I find that the relationship between the petitioner and the Insurance Company is purely contractual. In a similar case, in W.P.No.13594 and 29192 of 2013 (K.Srinivasan vs. State Government of Tamil Nadu and another), this Court by order dated 04.09.2014 has given direction to the Government to reimburse the claimed amount. The relevant portion in the said order reads as follows:

14.The Tamil Nadu Medical Attendance Rules clearly lay down the rules regarding dependents and who is entitled to medical concessions under the Rules. As per the said Rules, the petitioners are entitled to claim medical reimbursement against the Government. Similar issue was considered by the Divisional Bench of this court in the case reported in 2010 (2) LW 90 (Star Health and Allied Insurance Company Limited., vs. A.Chokkar and another), wherein in paragraphs 25 and 26 the Division Bench held thus,

''25.The Tamil Nadu Medical Attendance Rules ('the Rules' in short) clearly lay down the rules regarding dependents and who is entitled to medical concessions under the Rules. It also defines who is a well to do person. The Rules lay down the manner in which claims can be made. According to the learned Advocate General, these Rules are still in force and therefore, when it is a claim not covered by the present Insurance Scheme, the Government Servants have the right to make their claims under the Rules. Therefore, as regards Category-A, where treatment has been taken in a non-network hospital, the Insurance Company cannot be asked to cover the expenses, since the scheme itself makes the network hospitals as intrinsic. However, the petitioners/ claimants were also not no remediless and that is why we will issue directions to the claimants to make an application under the Rules or go before the Redressal Committee.''

6.Now it is brought to the knowledge of this Court that after one week from the date of discharge of the petitioner from M/s.Sudha Hospital, Erode, the said hospital has also been included in the network hospital list though on the date of taking treatment by the petitioner, the said hospital was not notified in the said network hospital list. However, the petitioner is entitled to reimburse the medical expenses incurred by him only from the Government, not from the 5th respondent herein.

7.In view of the above well settled legal position, a direction is issued to the 1st respondent to consider the case of the petitioner and reimburse the medical expenses incurred by him along with interest at the rate of 9% p.a. from 05.01.2017 i.e. the date of payment made by the petitioner to the hospital till date of reimbursement made to the petitioner, within a period of four weeks from the date of receipt of a copy of this order, since the contract entered into between the 1st respondent and the 5th respondent is not covering the claim of the petitioner.

8.The Writ Petition is disposed of accordingly. No costs.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

gya
To
1.The Secretary, Government of Tamil Nadu,
Rural Development & Panchayat Department,
Fort St. George, Chennai-9.
2.The District Collector, Erode District.
3.The Commissioner,
Kodumudi Panchayat Union, Erode.
4.The Joint Director [Health],
Government Hospital Campus, Erode.
5.M/s.United India Insurance Co. Ltd.,
Divisional Office, 5th Floor, PLA Rathna Tower,
212, Annasalai, Chennai-6.

+1cc to Mr.I.C.Vasudevan, Advocate Sr.No.11484
+1cc to Mr.P.Sankaranarayanan, Advocate Sr.no.11228

SS(CO)
sm:8.3.2018