

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.12.2018

CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

W.P.No.29928 of 2017

and

W.M.P.No.32435 of 2017

S.Jesus Doss

... Petitioner

vs.

1. The Principal Secretary/ Commissioner of Treasures and Accounts, Government of Tamilnadu, Panagal Buldings 2nd Floor, Saidapet, Chennai - 600 015.
2. The Secretary to Government, Finance Secretary, (Pension), Secretariat, George Fort, Chennai - 600 008.
3. The Director of Government, Health and Rural Development Department, Greams Road, Chennai - 600 006.
4. The Joint Director, District Treasury, Kancheepuram - 631 501.
5. The United India Insurance Co. Ltd., Divisional Office VI, PLR, Rathna Towers, 5th Floor, Annasalai, Chennai - 600 006.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records of Government Order Ms.No.171 dated 26.06.2014 issued by the second respondent and the committee decision rejecting the medical claim passed by third respondent on 11.05.2017 and to quash the same and direct the

respondents 1 to 5 to pass necessary orders to pay the reimbursement of Medical claim for a sum of Rs.4,71,548/- to the petitioner.

For Petitioner : Mr.B.Rajkumar Ashok Singh

For Respondents : Mr.I.Sathish,
Additional Government Pleader
for R1 to R4

Mr.P.Sankaranarayanan for R5

ORDER

The petitioner is aggrieved against the proceedings, wherein and whereby, the petitioner's claim for medical reimbursement was rejected only on the reason that the treatment was taken in a non-network hospital.

2. Heard both sides.

3. The petitioner worked as an Inspector of Police in 15th Special Battalion and retired from service on 30.09.2012. It is not in dispute that the New Health Insurance Scheme, 2014 for Pensioners (including spouse/family beneficiaries) implemented as per G.O.Ms.No.171 Finance (Pension) Department dated 26.06.2014, on a cashless basis, is applicable to the petitioner as well. Under such situation, the petitioner's wife became suddenly ill and got admitted into Balaji Hospital, Guindy, in IMCU and underwent an operation on 28.05.2015 and unfortunately, died on 30.05.2015. In that process, the petitioner claimed to have spent Rs.4,71,448/- towards medical expenses. Consequently, he presented an application for reimbursement of such medical expenses. The same was rejected by citing the reason that the Hospital, in which, the treatment was done is a non-network hospital.

4. Whether the respondents are entitled to reject the claim for medical reimbursement on the ground that the Hospital, in which, the treatment given is a non-network hospital, has already been considered by this Court in several cases and rejected such contention. One such case was dealt with in W.A. (MD).No.29/20178 dated 06.04.2018, wherein the Division Bench of this Court confirmed the order of the learned single Judge, however, by modifying the interest alone from 9% to 6%. The Division Bench, in fact, followed the earlier Division Bench

Order made in W.A.(MD)No.843 of 2017 dated 28.22.2017, wherein it has observed as follows:

"5. From the order under appeal, it appears that the impugned order dated 20.07.2016, had been passed mainly on two grounds. The first ground was that the hospital in which the writ petitioner/respondent's husband had been treated was not an approved hospital under the New Health Insurance Scheme and the second ground was that the writ petitioner/respondent had paid for the expenses, but her entitlement to treatment was under a cashless scheme. The medical facilities of pensioners are governed by various Government orders referred to in the order under appeal.

6. As per the said Government Orders, pensioners, which includes spouses and dependent children of pensioners, who undergo specialized advanced surgeries/treatments in respect of diseases included in the approved list in unaccredited hospital are also be eligible for sanction of assistance if admitted by reason of urgency for treatment, subject to the satisfaction of the Medical Officer concerned regarding the existence of facilities and infrastructure for the treatment/surgery in the hospital. As per the Government order, the Director of Pension has delegatory powers to sanction pending claims as well as future claims for medical assistance for the pensioners in respect of any eligible treatments as well as eligible treatment taken in unaccredited institutions both within the State as well as outside the State subject to the procedures specified. The procedure, inter alia, is that the Pension Pay Officer/ District treasury Officer/ Sub Treasury Officer/ Branch manager of Public Sector Bank, after satisfying himself about the details furnished in the application, shall consult the District Medical Officer attached to the Government Hospitals under the control of Director of Medical Rural

Health Services in the District and the Director of Medical Education in Chennai, as the case may be, who shall certify the existence of facilities and infrastructure for the treatment/ surgery undergone in the hospital.

7. In the case of N.Raja v. the State of Tamil Nadu reported in (2006) 3 CTC 394, the contention that the writ petitioner had been treated in a hospital, which was not listed, was not accepted by this Court and the Government was directed to reimburse the amount. In the case of MD India Health Care Services (TPA) Limited v. K.Parameswari being W.A.(MD) No.1579/2016, a Division Bench of which, one of us (J.Nisha Banu,J.) was member, passed an order dated 16.12.2016 allowing the claim of the husband of the writ petitioner therein.

8. The treatment of the writ petitioner/ respondent's husband is not in dispute. In an emergency, a patient may not be in a position to search a network hospital listed out in a Government Order. In any case, there could be no justification in the rejection of a claim on the ground that the writ petitioner had made payment, when, in fact, the Scheme was a cashless one. Payment under compulsion to facilitate treatment cannot possibly be a ground for rejecting a genuine claim to medical reimbursement.

9. We find no grounds to interfere with the order of the learned Single Bench. The writ appeal is dismissed. The interest shall, however, be 6% pa., and not 9% p.a., as directed by the learned single Bench. No costs. Consequently, connected Miscellaneous Petition is closed."

5. Considering the above stated facts and circumstances and in view of the fact that the issue involved in this case is squarely covered against the respondent and in favour of the

petitioner, this Writ Petition is allowed and the impugned order is set aside. Consequently, the respondents 1 to 4 are directed to reimburse the medical expenses to the petitioner within a period of four weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

vsi

To

1. The Principal Secretary/ Commissioner
of Treasures and Accounts,
Government of Tamilnadu,
Panagal Buldings 2nd Floor,
Saidapet, Chennai - 600 015.
2. The Secretary to Government,
Finance Secretary, (Pension),
Secretariat, George Fort,
Chennai - 600 008.
3. The Director of Government,
Health and Rural Development Department,
Greems Road, Chennai - 600 006.
4. The Joint Director,
District Treasury,
Kancheepuram - 631 501.
5. The United India Insurance Co. Ltd.,
Divisional Office VI, PLR, Rathna Towers,
5th Floor, Annasalai, Chennai - 600 006.

+1 cc to Mr.B.Rajkumar Ashok, Advocate Sr.No.86974
+1 cc to Mr.P.Sankaranarayanan, Advocate Sr.No.87210
+1 cc to The Government Pleader, Sr.No.87412

W.P.No.29928 of 2017

VG-II(CO)
CSL/18.12.2018