

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.12.2018

CORAM:

THE HONOURABLE Dr. JUSTICE S.VIMALA

W.P.No.30166 of 2018
and W.M.P.No.35215 of 2018

A.Shanmugam

... Petitioner

versus

1. The Principal Secretary to Government,
Finance (Salaries) Department,
Secretariat,
Chennai - 9.
2. The Additional Treasury Officer,
District Treasury,
Erode.
3. The Director of Medical & Rural
Health Services,
DMS Compound,
Teynampet,
Chennai - 6.
4. The District Collector,
Erode District.
5. The United India Insurance Co. Ltd.,
Whites Road,
Royapettah,
Chennai - 14.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of writ of certiorarified mandamus, to call for the records relating to the proceedings of the second respondent vide proceedings No.K.Dis.3149/2016/E2 dated 01.11.2016 and also the proceedings of the third respondent vide proceedings No.O.M.No.16704/Ka.P.1/3/2017, dated 02.04.2018 and to quash the same and consequently, direct the first respondent to reimburse the medical expenses incurred in taking treatment.

For Petitioner : Mr.S.Vijayakumar
For Respondents : Mr.A.N.Thambidurai,
Special Government Pleader

ORDER

The petitioner is a pensioner having retired from service as District Revenue Officer on 30.09.2009. The petitioner fell sick and on account of emergency, he was admitted in Valli Hospital Erode and a surgery was done on 06.10.2014. The petitioner submitted a representation to the District Treasury Officer, Erode, dated 15.09.2015, stating that he spent a sum of Rs.2,17,147/- towards medical expenses on account of surgery and the said amount should be reimbursed to him. This representation was rejected by order dated 01.11.2016 by the second respondent.

1.1. Thereafter, an appeal was submitted by the petitioner before the Principal Secretary/Commissioner of Treasuries and Accounts, Saidapet, Chennai, who in turn forwarded the appeal of the petitioner to the 3rd respondent. The petitioner also independently submitted a letter to the 3rd respondent on 25.12.2016. But, no order has been passed in the said appeal and the letter.

1.2. Thereafter, on 02.04.2018, the 3rd respondent has passed an order, rejecting the claim of the petitioner. Hence, the petitioner has filed this writ petition to quash the order of the second respondent dated 01.11.2016 and the order of the third respondent dated 02.04.2018.

2. The learned counsel appearing for the petitioner submitted that as the health condition of the petitioner was critical, on account of which, a surgery was to be done, due to which, there was no time for searching the network hospital covered under the Health Insurance Scheme. The learned counsel further submitted that as per amendment made to G.O.Ms.No.222 Finance (Pension) Department dated 30.06.2018, in case of emergency, if a pensioner undergoes emergency treatments/surgeries in the non-network hospital, the provision for reimbursement is available.

3. The learned Special Government Pleader appearing for the respondents brought to the notice of this Court the guidelines for implementation of New Health Insurance Scheme 2018 for pensioners (including spouse)/Family Pensioners, in which, sub-clause 4 of clause 14 provides that persons who are taking treatment in a non-network hospital, shall be eligible claim to the extent permissible under the Tamil Nadu Medical Attendance Rules and the G.O.Ms.No.1023, Health and Family Welfare

Department, dated 17.06.1980, but, the pensioner's claim cannot be made under Health Insurance Scheme.

4. Sub-clause 4 of Clause 14 of the guidelines for implementation of New Health Insurance Scheme 2018 for pensioners (including spouse) / Family Pensioners is extracted hereunder for convenient reference:

"14. Procedure to be followed by the Beneficiaries for availing Medical Assistance under this Scheme:

(1) to (3)

(4) In case, a Pensioner/Family Pensioner undergoes emergency treatments/surgeries not covered under this Scheme in either Network Hospital or Non-Network Hospital, no claim can be filed under the Health Insurance Scheme. However, they shall be eligible for claim to the extent permissible under the Tamil Nadu Medical Attendance Rules and the G.O.Ms.No.1023, Health and Family Welfare Department, dated 17.06.1980. It may be noted that the Tamil Nadu Medical Attendance Rules requires that treatment in private hospitals should not be resorted to except in cases of emergencies. Clause 2(3) of the aforesaid Government Order states that in genuine cases of emergency, the claims will be restricted to the expenditure that would have been incurred had the patient taken treatment in a Government Hospital excepting diet charges. For claims under Tamil Nadu Medical Attendance Rules, the Beneficiaries may apply to the authority in the department in which the Government employee last served who is competent to process and forward pension proposal to the Accountant General, Tamil Nadu. The Head of Office shall process the claims and pay the eligible claims under the Tamil Nadu Medical Attendance Rules."

5. The learned counsel for the petitioner relied upon the judgment of this Court reported in 2016 (3) CTC 394 (N.Raja vs. The Government of Tamil Nadu, Rep. by its Secretary, Adi Dravidar Welfare Department, Fort St. George, Chennai and another), wherein, it was held that the petitioner's claim for reimbursement of medical expenses cannot be declined on the ground that, in an emergency situation, the claimant did not take treatment in a non-network hospital and in that case, the 1st respondent, Government of Tamil Nadu was directed to reimburse the medical expenses with 9% interest from the date of remittance of the amount to the hospital till the date of payment.

6. Under the circumstances, the 1st respondent is directed

to reimburse the medical expenses incurred by the petitioner, within a period of eight weeks from the date of receipt of a copy of this order. If the petitioner is willing to have the claim settled as per the Sub clause 4 of Clause 14 of the guidelines for implementation of New Health Insurance Scheme 2018 for pensioners (including spouse) / Family Pensioners, then the first respondent shall settle the same accordingly.

7. With the above direction, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

To

1. The Principal Secretary to Government,
Finance (Salaries) Department,
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Chennai - 9.
2. The Additional Treasury Officer,
District Treasury,
Erode.
3. The Director of Medical & Rural
Health Services,
DMS Compound,
Teynampet,
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4. The District Collector,
Erode District.
5. The United India Insurance Co. Ltd.,
Whites Road,
Royapettah,
Chennai - 14.

+1cc to Mr.S.Vijayakumar, Advocate, S.R.No.84575

+1cc to the Government Pleader, S.R.No.85464

W.P.No.30166 of 2018

KK(CO)
GSP(23/01/2019)