



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.04.2018

CORAM:

THE HONOURABLE MS.INDIRA BANERJEE, CHIEF JUSTICE

AND

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.A(MD)No.29 of 2018

and

C.M.P(MD)No.170 of 2018

- 1.The Joint Director of Medical and Rural Health Service,
Tirunelveli District,
Tenkasi,
Tirunelveli District.
- 2.The District Educational Officer,
Tenkasi,
Tirunelveli District.
- 3.The Commissioner of Treasuries and Accounts,
Panagal Building, Saidapet,
Chennai - 15.
(Now, the Principal Secretary/Commissioner of Treasuries and
Accounts, Integrated Complex for Finance Department,
Veterinary Hospital Campus, Nandanam,
Chennai - 35.) : Appellants/ Respondents

Vs.

S.S.Mariappan : Respondent/ Petitioner

PRAYER: Writ Appeal is filed under Clause 15 of Letters Patent against the order of this Court dated 27.02.2017 in W.P.(MD)No.20207 of 2014 on the file of this Court.

Prayer in WP(MD) . 20207/ 2014 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus to call for the entire records in respect of the proceedings of the first respondent in No. 4092-27/Ka.5/2014 dated 22.9.14 and the consequential proceedings of the second respondent in அ.தி.மு No.5384/Aa.1/2014 dated 28.11.14 and quash the same and consequently direct the respondents to sanction the medical reimbursement of Rs.2,16,025/- the medical expenses incurred by the petitioner.

For Appellants

: Mr.V.R.Shanmuganathan
Special Government Pleader

For Respondent

: No appearance

**JUDGMENT**

[Judgment of the Court was delivered by
The Hon'ble Chief Justice]

The issues raised in this writ appeal are covered by the judgment and order of this Court in W.A.(MD)No.843 of 2017, dated 28th November, 2017, [The District Collector, Madurai District, Madurai and others v. J.Kanagam], wherein, this Court has held as under:-

"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 hospitals 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 and 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.

WEB COPY

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 Healthcare 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% p.a., and not 9% p.a., as directed by the learned single Bench. No costs. Consequently connected Miscellaneous Petition is closed".

2. Following the said Judgment and order, this writ appeal is dismissed. The interest shall, however, be 6% p.a., and not 9% p.a., as directed by the learned single Bench. No costs. Consequently, the connected civil miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)

/True copy/

Sub Assistant Registrar



To

1.The Joint Director of Medical and Rural Health Service,
Tirunelveli District,
Tenkasi,
Tirunelveli District.

2.The District Educational Officer,
Tenkasi,
Tirunelveli District.

3.The Commissioner of Treasuries and Accounts,
Panagal Building, Saidapet,
Chennai - 15.

(Now, the Principal Secretary/Commissioner of Treasuries and
Accounts, Integrated Complex for Finance Department,
Veterinary Hospital Campus, Nandanam,
Chennai - 35.)

+1CC TO M/S.V.KANNAN, ADVOCATE, SR NO.60488

ORDER MADE IN
W.A (MD) No.29 of 2018
and
C.M.P (MD) No.170 of 2018
06.04.2018

NB

MS/SKN-RSK/SAR-4/18.04.2018/4P.5C