



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: **21.02.2018**

CORAM:

THE HONOURABLE Mr.JUSTICE T.S.SIVAGNANAM
AND

THE HONOURABLE Mrs.JUSTICE R.THARANI

W.A.(MD).No.296 of 2018

and

C.M.P.(MD)No. 1741 of 2018

1. The Joint Director of Medical and Rural Health Services
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. ... Appellants/Respondents
Vs.

S.S.Mariappan ... Respondent/Writ Petitioner

PRAYER: This appeal is filed under Clause 15 of the Letters Patent, to set aside the order dated 27.02.2017 passed in W.P.(MD)No.20207 of 2014.

Prayer in WP(MD). 20207/ 2014 :

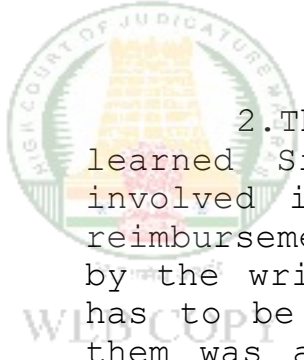
Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus to call for the entire records in respect of the proceedings of the first respondent in அ.தி.மு. No. 4092-27/Ka.5/2014 dated 22.9.14 and the consequential proceedings of 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	: Mr.K.Kannan

JUDGMENT

(Judgment of this Court was delivered by **T.S.SIVAGNANAM, J.**)

Heard Mr.V.R.Shanmuganathan, learned Special Government Pleader appearing for the appellants and Mr.K.Kannan, learned counsel appearing for the respondent.



2. This appeal is directed against the order passed by the learned Single Judge in W.P.(MD)No.20207 of 2014. The issue involved in this writ appeal is whether the claim for medical reimbursement for the surgery and the medical treatment undergone by the writ petitioner has to be considered or whether the same has to be rejected on the ground that the treatment availed by them was administered in a hospital, which is not accredited by the Government. However, it is not in dispute that the very same issue was considered by this Court in several decisions, latest being a case of **District Collector, Madurai District, Madurai v. J.Kanagam** reported in **W.P. (MD)No.843 of 2017**, wherein the Division Bench of this Court, after taking into consideration the earlier decision in the case of **N.Raja v. the State of Tamil Nadu** reported in **(2006) 3 CTC 394**, and the judgment in **W.A. (MD)No.1579 of 2016** dated **16.12.2016** dismissed the appeal filed by the Government. The only relief granted was to reduce the interest to 6% instead of 9%. Very recently, the Division Bench of this Court in the case of **the Director of Pension, DMS Complex, Thenampet, Chennai-6 and 3 others v. B.Sarada** in **W.A. (MD)No.1382 of 2017**, considered all the decisions on the said point and dismissed the appeals filed by the Government by judgment dated 09.11.2017.

3. The learned Special Government Pleader sought to make a distinction with regard to the case by submitting that in case of emergency, the Government order itself provides necessary protection for the persons to take treatment, but, however, in most of the cases, the procedure adopted is elective procedure i.e., surgery is pre-planned and therefore, for claiming the Insurance reimbursement, the person has to undergo such surgery in the Government accredited (Network) hospital. In our considered view, we are not experts to decide as to which medical treatment requires emergency care and attention and these issues are best left to the medical professionals. The law is well settled by this Court in several decisions some of which are noted above. We find there are no merits in the appeal filed by the appellants.

4. Accordingly, the appeal fails and stands dismissed. However, we direct that the interest should be reduced to 6% instead of 9%. No Costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(P&A)

/True Copy/

Sub Assistant Registrar

To

1. The Joint Director of Medical and Rural Health Services
<https://hcservices.ecourts.gov.in/hcservices/>
 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.

ARUL

VB/SV/MMS/SAR3/09/03/2018/3P/4C

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