



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.01.2018

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THE HON'BLE MR.JUSTICE N.KIRUBAKARAN
AND
THE HON'BLE MRS.JUSTICE R.THARANI

W.A.(MD)No.54 of 2018
and
C.M.P(MD)No.273 of 2018

- 1.The Secretary,
Family Welfare and Health Department,
Government of Tamil Nadu,
Secretariat,
Fort St. George,
Chennai - 600 009.
- 2.The Director of Pension,
259, Anna Salai,
3rd Block - 2nd Floor,
DMS Campus,
Teynampet,
Chennai - 600 006.
- 3.The Divisional Manager,
United India Insurance Co., Ltd.,
No.24, Whites Road,
Chennai - 600 014.
- 4.The District Treasury Officer,
Kanyakumari District,
Nagercoil,
Kanyakumari District.

... Appellants/Respondents

Vs.

A.Evurensia

... Respondent/Writ Petitioner

Writ Appeal filed under Clause 15 of Letter Patent against the order passed by this Court in W.P.(MD)No.16947 of 2016 dated 02.11.2016.

Prayer in WP(MD). 16947/ 2016 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Certiorarified mandamus or any other writ to call for the records of the 4th respondent communicating the rejection of medical reimburse amount by the 3rd respondent in Na.Ka.No.21977/2015/L2(4) dated 29/07/2016 abd further direct the respondents to pay the medical claim reimbursement of Rs.2,55,478.00 with interest within the time frame that may be stipulated by this Hon'ble Court.



For Appellants

: Mr.VR.Shanmuganathan,
Special Government Pleader

For Respondent

: Mr.S.M.Lingeswaran

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JUDGMENT

(Judgment of the Court was delivered by N.KIRUBAKARAN, J)

This Writ Appeal has been preferred by the appellants as against the order passed by the learned Single Judge, by which the order of remand has been made, directing the appellants 2 and 4 to consider the claim of the writ petitioner/respondent in the light of G.O.No.477, dated 30.09.2009 and to pass appropriate orders.

2.The respondent is a pensioner and he was admitted in NIMS Medicity Hospital, Kerala due to chest pain and got treatment from 08.03.2015 to 10.03.2015 and the expenditure incurred was Rs.22,953/-. Again he was admitted in SUT Hospital, Pattam, Thiruvananthapuram and the expenditure incurred was Rs.22,593/-. Thereafter also, she was admitted in SUT Hospital, on two times for severe chest pain from 23.03.2015 to 02.04.2015 and from 07.04.2015 to 15.04.2015 and incurred the expenditure of Rs.43,711/- and Rs.42,197/- respectively. So totally she incurred expenditure of Rs.2,55,478/- and the same has been claimed as reimbursement. The same was rejected by order dated 29.07.2016, by the fourth appellant stating that the Hospital in which the respondent took treatment is non-network hospital or unapproved hospital.

3.The said order was challenged before this Court and the learned Single Judge allowed the Writ Petition relying upon the judgment of this Court in N.Raja v. The Government of Tamil Nadu reported in 2016 (3) CTC 394, wherein this Court held that what is material is whether the parties took treatment and not hospital is approved or unapproved. The learned Judge further relied on G.O.No.477, Finance (Pension) Department, dated 30.09.2009, wherein in clause (3) it is stated that the Government issues relaxation orders, sanctioning the claims and permitting the Director of Pension to admit such claims of treatments in unapproved hospitals and unaccredited institutions in the case petitioners, who won the case and the petitioners were paid by the Director, accordingly. Further, the learned Judge relied upon paragraph 4(i)(a) of G.O.(Ms) No.458, Finance (Pension) Department, dated 21.09.2007, wherein the procedure with regard to the unaccredited hospital treatment has been prescribed. The said paragraph reads thus:

"The Pension Pay Officer / District Treasury Officer / Sub-Treasury Officer / Branch Manager of the Public Sector Bank after satisfying himself about the details furnished in the application received in his office, 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 and through Pension Pay Officer / Treasury Officer / Sub-Treasury Officer / Branch Manager of the bank concerned shall send the claim to Director of Pension within a week."

4.From the above it is clear that even if the treatment is taken in unapproved hospitals, the officer concerned shall consult the District Medical Officer attached to the Government Hospitals to certify whether there is any existence of facilities and infrastructure for the treatment undertaken by the concerned pensioner. Even if the pensioner claims reimbursement for any treatment from unaccredited hospital, if para 4(i)(a) of G.O.(Ms) No.458, Finance (Pension) Department, dated 21.09.2007 is followed, there shall not be any problem for either sanctioning or rejecting the claim of the respondent. Therefore, the learned Judge rightly set aside the order and remanded the matter to appellants 2 and 4 to consider it in the light of G.O.No.477, Finance (Pension) Department, dated 30.09.2009. Therefore, there is no illegality or infirmity in the order passed by the learned Single Judge. In fact, the remand order is only to certify the claim of the respondent and to act accordingly.

5.Hence, the Writ Appeal fails and the same is dismissed with a direction to the appellants 2 and 4 to consult the District Medical Officer and consider the claim of the respondent within a period of ten days from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petition is also dismissed.

Sd/-
Assistant Registrar(CO)

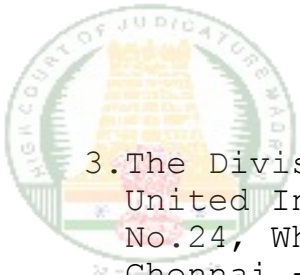
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Sub Assistant Registrar

To

1.The Secretary,
Family Welfare and Health Department,
Government of Tamil Nadu,
Secretariat,
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2.The Director of Pension,
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4.The District Treasury Officer,
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Nagercoil,
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+1cc to M/S.S.Mandhira Lingeswaran, Advocate SR.No. 42163

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and
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sj
JM/JC/SAR 4/01.02.2018/4P/6C