



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.02.2018

CORAM:

THE HONOURABLE Mr.JUSTICE T.S.SIVAGNANAM
AND
THE HONOURABLE Mrs.JUSTICE R.THARANI

W.A. (MD) .Nos.75 to 78 of 2018
and
C.M.P. (MD) Nos. 348 to 351 of 2018

W.A. (MD) No.75 of 2018:

- 1.The Director of Pension,
DMS Complex, Chennai-6.
- 2.The District Collector,
Theni District, Theni.
- 3.The Joint Director of Medical and Rural Health Services
and Family Welfare,
Theni at Periyakulam, Theni District.
- 4.The Treasury Officer,
District Treasury,
Theni District.

... Appellants/Respondents

Vs.

D.Sornam

... Respondent/Writ Petitioner

PRAYER: This appeal is filed under Clause 15 of the Letters Patent, to set aside the order on 08.11.2016 and passed in W.P.(MD) No.21356 of 2016.

Prayer in WP(MD). 21356/ 2016 :

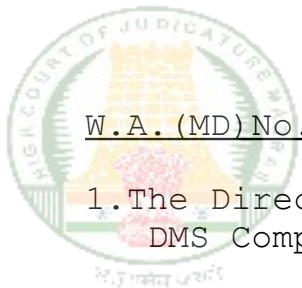
Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Mandamus directing the Respondents to Reimburse Rs.4,11,000/- (Rupees four Lakhs eleven thousands only) being the actual medical expenditure incurred by the Petitioner for the treatment given to the petitioners wife for the Chronic obstructive Pulmonary disease- Acute Exacerbation - Old Pulmonary Tuberculosis Diabetes Mellitus Type -2 Breathing Problem undergone by the petitioners wife in Apollo Speciality Hospital, Madurai within a specified period that may be fixed by this Honble court.

For Appellants

: Mr.V.R.Shanmuganathan
Special Government Pleader

<https://hcservices.ecourts.gov.in/hcservices/>
For Respondent

: Mr.S.Govindan

W.A. (MD) No. 76 of 2018:

1. The Director of Pension,
DMS Complex, Chennai-6.

2. The Director, Medical and Rural Health,
Services Department, Chennai-6.

3. The District Collector,
Theni District, Theni.

4. The Treasury Officer,
District Treasury,
Theni District.

... Appellants/Respondents

Vs.

R. Subramanian

... Respondent/Writ Petitioner

PRAYER: This appeal is filed under Clause 15 of the Letters Patent, to set aside the order on 23.11.2016 and passed in W.P. (MD) No. 22382 of 2016.

Prayer in WP (MD). 22382/ 2016 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus calling for the records connected with impugned order passed by the 2nd respondent in his proceedings O.Mu.No.51885/Ka Pi 1/3/2016 dated 16.06.2016 and quash the same and consequently direct the 1st respondent to reimburse Rs.67,522/- (Rupees Sixty seven thousands five hundred twenty two only) being the actual medical expenditure incurred by the petitioner for the treatment given to the petitioners wife for the Tumor in spinal cord diagnosed as MENINGIOMA, TRANSITIONAL TYPE (WHO Grade I) D11-D12 level spinal at the Sree Chitra Tirunal Institute for Medical Science and Technology, Trivandrum within a specified period.

For Appellants	: Mr.V.R.Shanmuganathan
	Special Government Pleader
For Respondent	: Mr.S.Govindan

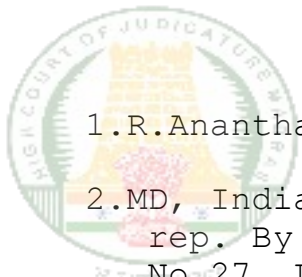
W.A. (MD) No. 77 of 2018:

1. The State of Tamil Nadu,
Rep. By its Secretary,
Education Department, Secretariat,
St. Fort George, Chennai-9.

2. The Chief Educational Officer,
Theni District.

3. The Treasury Officer,
Theni District.

... Appellants/Respondents 1, 2 & 4



1.R.Ananthakumari

... 1st Respondent/Writ Petitioner

2.MD, India Health Care Service (TPA) Pvt. Ltd.,
rep. By the Senior Manager Operations,
No.27, Lakshmi Towers,
3rd Floor, Dr.Radhakrishnan Salai,
Mylapore, Chennai- 600 004.

... 2nd Respondent/3rd Respondent

PRAYER:This appeal is filed under Clause 15 of the Letters Patent, to set aside the order on 02.12.2016 and passed in W.P.(MD)No.22962 of 2016.

Prayer in WP(MD). 22962/ 2016 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus calling for the records pertaining to the proceedings of the 3rd respondent made in GTM0141/TNHIS/06/2015, dated 15.06.2015 quash the same and consequently direct the respondents to reimbursed Rs.80,000/- with 12% interest to the petitioner.

For Appellants : Mr.V.R.Shanmuganathan
Special Government Pleader
For Respondent No.1 : Mr.Sankar Prakash

W.A.(MD)No.78 of 2018:

1.The Director of Pension,
DMS Complex, Chennai-6.

2.The Joint Director of Medical and Rural Health Services
and Family Welfare,
Theni at Periyakulam, Theni District.

3.The District Collector,
Theni District, Theni.

4.The District Treasury Officer,
District Treasury,
Theni District.

... Appellants/Respondents

Vs.

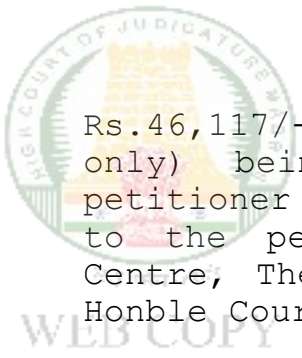
R.Saroja

... Respondent/Writ Petitioner

PRAYER:This appeal is filed under Clause 15 of the Letters Patent, to set aside the order on 01.12.2016 and passed in W.P.(MD)No.23100 of 2016.

Prayer in WP(MD). 23100/ 2016 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Mandamus directing the 1st Respondent to Reimburse a sum of



Rs.46,117/- (Rupees forty six thousand one Hundred and Seventeen only) being the actual medical expenditure incurred by the petitioner for the treatment FRACTURE NECK OF FEMUR LEFT HIP given to the petitioners husband S.Rajaram (late) at Rathinam Ortho Centre, Theni within a specified period that may be fixed by this Honble Court.

For Appellants : Mr.V.R.Shanmuganathan
Special Government Pleader
For Respondent : Mr.S.Govindan

COMMON 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.S.Govindan, learned counsel appearing for the respondents and Mr.C.Sankar Prakash, learned counsel appearing for the first respondent in W.A.(MD)No.77 of 2018.

2.These appeals are directed against the orders passed by the learned Single Judge in W.P.(MD)No.21356, 22962, 22382 and 23100 of 2016. The common issue involved in all these writ appeals are whether the claim for medical reimbursement for the surgery and the medical treatment undergone by the writ petitioner/their spouses has to be considered or whether the same has to be rejected on the ground that the treatment availed by them was by admission in the 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 reported 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 preplanned and therefore, for claiming the Insurance reimbursement the person has to undergo such surgery in the Government accredited 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 appeals fails and stands dismissed, however, we direct that the interest should be reduced to 6% instead of 9%. No Costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (Crl. side)

/True Copy/

Sub Assistant Registrar

To

1. The Director of Pension,
DMS Complex, Chennai-6.
2. The District Collector,
Theni District, Theni.
3. The Joint Director of Medical and Rural Health Services
and Family Welfare,
Theni at Periyakulam, Theni District.
4. The Treasury Officer,
District Treasury,
Theni District.
5. The Secretary to Government of Tamil Nadu,
Education Department, Secretariat,
St. Fort George, Chennai-9.
6. The Chief Educational Officer,
Theni District.
7. The Director,
Medical and Rural Health,
Services Department,
Chennai - 6.

+3ccs to M/S.S.Govindan, Advocate SR.No. 49066, 49067 and 49068
+1cc to M/S.C.Sankar Prakash, Advocate SR.No. 49059

W.A. (MD) .Nos.75 to 78 of 2018
15.02.2018

mrn/rmk