



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.02.2018

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD) .No.1174 of 2018

WEB COPY

M.Sumathi Rosarina

...Petitioner

Vs.

1. The Government of Tamil Nadu,
Represented by its Principal Secretary,
Public Works Department,
Fort St.George,
Chennai-600009.

2. The District Collector,
Collectorate,
Madurai-20.

3. The Commissioner of Treasury & Accounts
Chennai.

... Respondents

(R3 is suo motu impleaded vide Court order dated:26.02.2018)

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records for the second respondent in their order dated 29.12.2016 in file No.Na.Ka.No.E5/64005/2012 and quash the same as arbitrary, discriminatory, unreasonable and direct the respondents to give full reimbursement of Rs.11,89,409/- with 15% interest for the delay and appropriate damages for causing mental agony and financial difficulty to the petitioner.

For Petitioner : Mr.P.Ganapathisamy

For Respondents : Mr.J.Gunaseelan Muthiah

Additional Government Pleader

ORDER

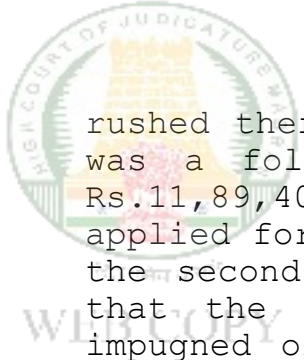
Heard the learned counsel on either side.

2.By consent of both parties, the main Writ Petition is taken up for final disposal.

3.The Commissioner of Treasury & Accounts, Chennai, is suo motu impleaded as the third respondent.

4.The petitioner is employed in the Public Works Department. Her husband suffered paralytic stroke on 07.07.2014 at Madurai Railway Station. Considering the critical condition, he was rushed to a reputed Hospital at K.K. Nagar, Madurai.

5.According to the petitioner, it is a reputed hospital for Neuro surgery. Therefore, in view of the acute emergency he was



rushed there. An operation was performed on the same date. There was a follow up procedure conducted on 31.07.2014. A sum of Rs.11,89,409/- was incurred as medical expenditure. The petitioner applied for re-imburement. By the impugned order dated 29.12.2016, the second respondent denied the petitioner's claim on the ground that the treatment was taken in a non network hospital. The impugned order makes it clear that an appeal will lie before the State level appellate Committee. Aggrieved by the same, this Writ Petition has been filed. That is why this Court has Suo motu impleaded the appellate body as the third respondent.

6.The petitioner is permitted to lodge an appeal before the third respondent within a period of two weeks from the date of receipt of a copy of this order with all the communicated materials. If such an appeal is entertained within a period of two weeks from the date of receipt of a copy of this order, the Appellate Committee shall consider the same without any reference to limitation. It is made clear that even according to the respondents, the second respondent rejected the petitioner's claim on the ground that the treatment was taken in a non network hospital. This Court is of the view that in this case such ground will not be applicable. This was because the petitioner's husband suffered paralytic stroke and he was rushed to hospital, which is known to be a reputed institution in the filed of Neuro surgery. It is also seen that immediately after admission emergent surgery was also performed on the petitioner's husband. When the first surgery was performed immediately on 07.07.2014, the question of shifting him, thereafter, will not arise.

7.However, the contention of the learned Additional Government Pleader appearing for the respondents is that the purpose of condition to take treatment in a network network hospital is that there will not be excess charging.

8.This Court is therefore of the view that the Appellate body can reimburse to the petitioner on the same terms, which would be paid to network hospitals. It is made clear that the petitioner's case will not be denied on the ground that the treatment was in a non-network hospital if the petitioner lodges an appeal within a period of two weeks. The third respondent shall pass orders on or before 31.08.2018 and the amount so sanctioned will also be disbursed forthwith.

9.With these directions, the Writ Petition stands partly allowed. No costs.

Sd/-

Assistant Registrar (CO)

/True Copy/

Sub Assistant Registrar



To

1. The Principal Secretary,
Government of Tamil Nadu,
Public Works Department,
Fort St. George,
Chennai-600009.

2. The District Collector,
Collectorate,
Madurai-20.

3. The Commissioner of Treasury & Accounts
Chennai.

+1CC to the Special Government Pleader SR.No.51682

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