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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 18.06.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.DURAISWAMY
and

THE HONOURABLE DR.JUSTICE ANITA SUMANTH

W.A(MD)No.747 of 2018

and

C.M.P(MD)No.4441 of 2018

1. The District Treasury Officer,
Kanyakumari District,
at Nagercoil.
2. The Director 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).
3. The Director of Pension,
DMS Campus,
3rd Block, 2nd Floor,
259, Anna Salai,
Chennai - 600006.
4. The District Collector,
Kanyakumari District,
At Nagercoil. ... Appellants/Respondents 1, 2, 4 and 5

Vs.

1. N.Retnammal ... 1st Respondent / Petitioner
2. The Organizer,
United India Insurance Corporation,
Nagercoil,
Kanyakumari District. ... 2nd Respondent / 3rd respondent
3. The Principal Accountant General (A & E),
Tamil Nadu, Thenampet,
Chennai. ... 3rd respondent / 6th respondent

Prayer: Writ Appeal filed under Clause 15 of the Letter Patent, to
<https://hcservices.ecourts.gov.in/hcservices/> set aside the order passed in W.P(MD)No.23023 of 2015 dated
27.02.2017 and allow this Writ Appeal.

Prayer in WP(MD). 23023/ 2015 :

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 Impugned order of the 1st respondent in Na.Ka.No.21977/12/2016 dated 23.11.2015 and to quash the same and direct the respondents 1 and 2 to disburse the medical reimbursement amount of Rs.35,740/- within the time stipulated by this Hon'ble Court.

For Appellants : Mr.A.K.Baskarapandian,
Special Government Pleader

For R-1 : Mr.R.Nanda Kumar

For R-2 : Mr.A.Shajahan

JUDGMENT

(Judgment of the Court was made by **M.DURAISWAMY, J.**)

Challenging the order dated 27.02.2017 passed in W.P(MD)No.23023 of 2015, the respondents in the Writ Petition have filed the above Writ Appeal.

2. The first respondent / writ petitioner filed the writ petition to issue a writ of Certiorarified Mandamus, to call for the records pertaining to the order passed by the first respondent therein in Na.Ka.No.21977/12/2016 dated 23.11.2015 and to quash the same and direct the respondents 1 and 2 therein to disburse the medical reimbursement amount of Rs.25,740/-, within a timeframe.

3. It is not in dispute that the writ petitioner is a retired Special Grade Steno Typist in Sub-Court, Kuzhithurai, Kanyakumari District and she has approached this Court against the rejection order in respect of her medical claim for the treatment underwent by her. The claim made by the writ petitioner was rejected by the first appellant on the ground that she underwent treatment not in an approved hospital.

4. It is also not in dispute that the Government have entered into a contract with the Insurance Company between the years 2014 and 2018 and as per the said contract, the Insurance Company is liable to pay the entire amount directly to the network hospital and it cannot reimburse the amount in terms of money, as the facility extended itself is a cashless facility. But, the petitioner has taken treatment in a non-network hospital on account of emergent situation, which ultimately resulted in <https://hse.courtsonline.in/hse/hsest> services claim. Subsequently, the High Level Committee has also rejected the claim of the petitioner. If the claim is approved, the petitioner would be paid the medical benefits based



on the Tamil Nadu Medical Attendance Rules. The benefit of Scheme, namely, the contract cannot be rewritten and it is only the Government to pay the amount incurred by the appellant/employee/patient/pensioner irrespective of the constitution of the Committee.

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5. It is also pertinent to mention that the patient cannot search for network hospital for getting admitted or for taking treatment during emergency.

6. The learned single Judge, after taking into consideration the judgment, dated 16.12.2016 made in W.A(MD) No.1579 of 2016 (*MD India Healthcare Services (TPA) Ltd., rep. by the Branch Manager, Chennai vs. K.Parameshwari and others*), found that the writ petitioner is entitled to claim reimbursement from the respondents 1 and 2 / appellants 1 and 2 herein. Accordingly, the learned single Judge directed the appellants 1 and 2 to sanction the medical expenses incurred by the appellant/writ petitioner as per the eligibility criteria in terms of amount under the Scheme along with interest @ 9% per annum, without standing on technicalities and release the eligible amount to the petitioner, within a period of two months from the date of receipt of a copy of that order. Challenging this order, the appellants have filed this writ appeal.

7. Heard Mr.A.K.Baskarapandian, learned Special Government Pleader appearing for the appellants and Mr.R.Nanda Kumar, learned counsel appearing for the first respondent.

8. On a careful consideration of the materials placed before this Court and the submission made by the learned counsel appearing on either side, it could be seen that the writ petitioner is a retired Special Grade Steno Typist and she has filed the writ petition for reimbursement of her medical expenses incurred by her when she was taking treatment in a non-network hospital.

9. In similar circumstances, the Division Bench of this Court in the following unreported judgments held that the claimants are entitled to get reimbursement for the medical expenses incurred by them even though they took treatment in a non-network hospital.

(i) judgment dated 28.11.2017 made by a Division Bench of this Court in WA(MD)No.843 of 2017 (*the District Collector and two others v. J.Kanagam*);

(ii) Judgment dated 21.02.2018 made by a Division Bench of this Court in WA(MD)No.285 of 2018 (*The Government of Tamilnadu rep. by its Secretary and two others v. G.Ravi Ubald Prakash and another*); and



(iii) Judgment dated 22.02.2018 made by a Division Bench of this Court in WA(MD)No.298 of 2018 (The District Collector and two others v. K.Subramanian Pillai and another).

10. The ratio laid down in the above referred judgments relied upon by the learned counsel appearing for the first respondent / claimant squarely apply to the facts and circumstances of the case.

11. Mr.A.K.Baskarapandian, learned Special Government Pleader also submitted that the issue involved in this writ appeal is covered by the decisions of the Division Benches of this Court. However, the learned Special Government Pleader submitted that the learned single Judge has awarded rate of interest @ 9% per annum, which can be reduced to 6% per annum.

12. The learned counsel appearing for the first respondent / writ petitioner has no objection for reducing the interest from 9% per annum to 6% per annum.

13. In view of the same, we do not find any error or any irregularity in the order passed by the learned single Judge. However, the interest awarded by the learned single Judge is reduced to 6% per annum from 9% per annum.

14. With this modification, the writ appeal is dismissed. No Costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS-I)

/True Copy/

Sub Assistant Registrar

+ 1 cc TO Mr.R.Nandakumar , Advocate in SR No. 68506
+ 1 cc TO Mr.A.Shajahan , Advocate in SR No. 68590
+ 1 cc TO The Special Government Pleader in SR No. 68612

PM

AE/SKN RSK/SAR1/02.07.2018/4P/4C

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