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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 08.03.2018

CORAM:

THE HONOURABLE Mr.JUSTICE T.S.SIVAGNANAM
AND

THE HONOURABLE Mrs.JUSTICE R.THARANI
W.A. (MD) .Nos.415 and 416 of 2018

and

C.M.P. (MD) Nos. 2500 and 2501 of 2018

1.The Secretary to Government,
Finance (Pension) Department,
Secretariat,
Chennai - 600 009.

2.The Director of Pension,
259, 3rd Block, 2nd Floor,
D.M.S. Compound,
Thenampet,
Chennai - 600 006.

3.The Treasury Officer,
District Treasury,
Madurai - 625 020.

... Appellants/Respondents
in both W.As

Vs.

M.Chellam

... Respondent/Petitioner in
W.A. (MD) No.415 of 2018

P.S.Krishnamoorthy

... Respondent/Petitioner in
W.A. (MD) No.416 of 2018

COMMON PRAYER:These appeals are filed under Clause 15 of the Letters Patent, to set aside the order dated 19.07.2016 and 05.08.2016 in W.P. (MD) Nos.18079 of 2013 and 17584 of 2014 respectively.

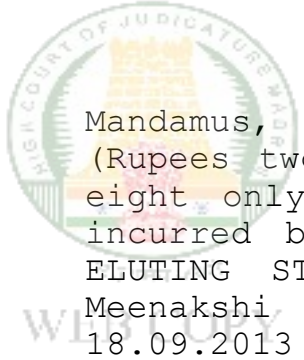
Prayer in WP(MD). 18079/ 2013 :

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. 2,77,000/- (Rupees two lakhs seventy seven thousands only) being the balance of the actual Medical Expenditure incurred by the petitioner for the Major Surgeries of Bentall's Operation and coronary Artery by pass graft surgery undergone by the petitioner in Meenakshi Mission Hospital and Research Centre, Madurai on 30.01.2013 within a specified period that may be fixed by this Honourable High Court and to pass such further or other orders as this Honourable Court may deem fit.

Prayer in WP(MD). 17584/ 2014 :

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

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.2,21,498/- (Rupees two lakhs twenty one thousands and four hundred and ninety eight only) being the balance of the actual Medical expenditure incurred by the petitioner for the treatment of PTCA with DRUG ELUTING STENT TO LAD and RCA undergone by the petitioner in Meenakshi Mission Hospital and Research Centre, Madurai on 18.09.2013 within a specified period that may be fixed by this Honourable High Court.

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

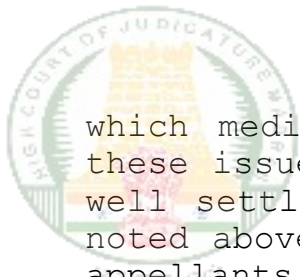
COMMON JUDGMENT

(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.

2.These appeals are directed against the orders passed by the learned Single Judge in W.P.(MD) Nos.18079 of 2013 and 17584 of 2014. The common issue involved in both the 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 performed only in emergency cases. 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.

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4. Accordingly, the appeals fail and stand dismissed. No Costs. Consequently, connected miscellaneous petitions are closed.

5. It is represented that during the pendency of the proceedings, some amount was paid. Hence, the appellants are directed to pay the balance amount within a period of four weeks from the date of receipt of a copy of this judgment.

6. It is also represented that the respondent in W.A.(MD) No.415 of 2018 died. Therefore, the amount payable to the respondent in W.A.(MD) No.415 of 2018 shall be disbursed to one of his legal representative on obtaining proper authorization.

Sd/

Assistant Registrar (Crl side)

/True copy/

Sub Assistant Registrar

To

1. The Secretary to Government,
Finance (Pension) Department,
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Chennai - 600 009.

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3. The Treasury Officer,
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Madurai - 625 020.

+2cc to Mr.S.Govindan, Advocate, SR.No. 53954,53955

W.A. (MD) .Nos.415 and 416 of 2018
08.03.2018

sj

KK/SV MMS/12.04.2018/SAR-4/3P-6C