



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.09.2018

CORAM :

WEB COPY

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P(MD)No.7392 of 2011

S.Arumugam

... Petitioner

vs.

1)The Director,
Medical and Rural Health Service,
Chennai-6.

2)The Director,
Tamil Nadu Fire & Rescue Service Department,
Egmore,
Chennai-8.

3)The Deputy Director,
South Zone,
Tamil Nadu Fire & Rescue Service Department,
Madurai-1.

4)The Divisional Officer,
Tamil Nadu Fire & Rescue Services,
Madurai Division,
Madurai.

5)The Special Commissioner,
Treasury and Accounts Department,
Chennai.

... Respondents

(R5 is suo motu impleaded in this case)

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in Pa.Mu.No.2574/A/2008 dated 10.01.2011 passed by the Respondent No.3 and quash the same as illegal and consequently directing the Respondents to provide the medical reimbursement to the petitioner under the Tamil Nadu Government Employees Health Fund Scheme, 1991 within time stipulated by this Honourable Court.

For Petitioner : Mr.T.Lajapathi Roy

For Respondents: Mr.R.Murugan

Additional Government Pleader

ORDER

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

The present writ petition has been filed for issuance of a Writ of Certiorarified Mandamus, to call for the records



pertaining to the impugned order in Pa.Mu.No.2574/A/2008, dated 10.01.2011, passed by the 3rd respondent and quash the same as illegal and consequently direct the respondents to provide the petitioner medical reimbursement under the Tamil Nadu Government Employees Health Fund Scheme, 1991 within a time frame to be fixed by this Court.

2.The petitioner would aver among other things that when he was working as Fireman in Thirumangalam Fire and Rescue Service Station from 25.05.2009, he was dignosed with Normal Coronaries with Vasospastic Angina, therefor, he had undergone treatment as inpatient in Vadamalayan Hospital, Madurai, from 01.07.2007 to 08.07.2007 and also taking treatment till date. He incurred expenditure of Rs.26,315.50/- towards treatment. He made an application on 07.09.2007 to the 2nd respondent through the 4th respondent for medical reimbursement. After a long wait, the 4th respondent served the copy of the impugned letter sent by the 3rd respondent returning the claim papers of the petitioner to the 4th respondent, stating that discharge summary and reason for admission were not furnished along with file. Aggrieved by the said order, the petitioner has filed this writ petition to quash the same.

3.Learned counsel for the petitioner would submit that the authorities are bound to ensure as to whether the claimant had actually taken treatment and the factum of treatment in support of the records is duly certified by the doctors and hospital where he took treatment. Once it is established, the claimant cannot be denied medical reimbursement on technical grounds and therefore, prayed for reimbursement of his medical claim.

4.The respondents 2 to 4 filed counter affidavit stating that it was not correct to state that the petitioner's claim of medical reimbursement was not considered and at this stage, clarification has been sought for once again from the Director of Medical and Rural Health Services, Chennai and he returned the papers stating that discharge summary was not enclosed.

5.Learned Additional Government Pleader would further submit that the Director of Medical and Rural Health Services, Chennai, vide letter No.2864/A1/3/2009, dated 22.06.2009 and 28.07.2009 addressed to the 3rd respondent, requested the 3rd respondent to state whether the treatment undergone by the petitioner comes under the specialised advanced surgery / treatment approved by the Government under the Tamil Nadu Government Employees Health Fund Scheme, 1991. The 3rd respondent addressed a letter vide No.2574/A/08 dated 09.01.2009, to the Vadamalayan Hospital, Madurai, asking them the exact date of admission and discharge and the name of the disease suffered by the petitioner and the Vadamalayan Hospital through the letter dated 20.02.2009 has

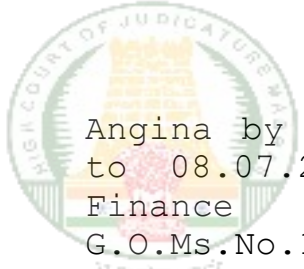


specified that the petitioner underwent inpatient treatment in the said hospital from 01.07.2007 to 08.07.2007 and the disease was diagnosed as normal coronaries with vasospastic angina.

6. According to the respondents, Vadamalayan Hospital did not specify the original name of the disease and therefore, opinion was sought for from the Director of Medical and Rural Health Services, Chennai, who vide Letter Mu.Mu.No.2864/KA-B1/3/2009, dated 31.08.2010, with the letter O.Mu.No.20784/Tha.Sel/09, dated 09.06.2010, of the General Hospital, Chennai, had clarified that since no discharge summary and reason for admission not furnished along with file, whether the treatment undergone by the petitioner comes under the specialised advanced surgery / treatment could not be furnished. The 3rd respondent in his memorandum No.Pa.Mu.No.2574, dated 10.01.2011, has described the facts and the copy of this letter has been served on the petitioner and as against this order, the present writ petition has been filed. Therefore, the respondents prayed for dismissal of the writ petition.

7. Heard the learned counsel for the petitioner as well as the learned Additional Government Pleader for the respondents and perused the materials available on record.

8. Perusal of record shows that as soon as the 4th respondent received the claim papers of the petitioner, has sought for clarification from the Director of Medical and Rural Health Services, Chennai, vide letters dated 23.11.2007 and 04.03.2008, asking whether the treatment undergone by the petitioner comes under the Tamil Nadu Government Employees Health Fund Scheme, 1991, as per the Government Order No.400 Finance (Salary) Department, dated 29.08.2000 and the Government Order No.383/Finance (Salary) Department, dated 28.09.2001, for which, the Director of Medical and Rural Health Services in his letter vide O.MU.No.99276/Ka-B1/3/2007, dated 16.04.2008, has stated that the District level head of the Departments, or District Collectors not below the pay scale range of Rs.10000-325-15200 can recommend and do follow up action and therefor, the recommendations of the Director of Medical Education, the Director of Medical and Rural Health Services and the District Joint Director, Health Services are not necessary. Only in case of treatment undergone from the unrecognised hospital, the recommendation of the Director of Medical and Rural Health Services, Chennai, will be necessary. Thereafter, the 4th respondent has informed the same to the 3rd respondent and requested to issue sanction orders for Rs.19,736/-, 75% of the actual amount spent by the petitioner. The 3rd respondent passed the sanction order vide No.2594/A/08 dated 29.05.2008 for medical assistance under the Tamilnadu Government Employees Health Fund Scheme for the specialised surgery / treatment undergone for Coronary Artery Disease with Vasospastic



Angina by the petitioner in Vadamalayan Hospital from 01.07.2007 to 08.07.2007. Under the powers delegated in G.O.Ms.No.846 Finance (Salaries) Department, dated 14.12.1993 and in G.O.Ms.No.141 Finance (Salary) Department, dated 26.02.1996, sanction was accorded for payment of Rs.19,737/- being 75% of the actual expenditure. The sanction order was submitted to the office of the Commissioner of Treasury and Accounts to obtain cheque. The Special Commissioner of Treasury and Accounts has stated in his letter No.CTA N.Dis825822/H4/2008 that the claim is time barred and the correct name of the disease/surgery treatment as mentioned in G.O.Ms.No.377, Finance (Salary) Department, dated 13.10.2005 was directed to be noted and the same was sent to the Director of Medical and Rural Health Services, Chennai, to clarify whether the disease comes under the kind of diseases specified under G.O.Ms.No.377, Finance (Salary) Department, dated 13.10.2005.

9.It is not in dispute that the petitioner took treatment for normal coronaries with vasospastic angina. It is also not in dispute that the petitioner is covered under the Tamil Nadu Government Employees Health Fund Scheme, 1991. It is very unfortunate that the Director of Medical and Rural Health Service, Chennai, had simply returned the papers stating that the discharge summary was not enclosed. For no fault of the petitioner, the authorities on hyper-technical grounds, have made the claim papers of the petitioner shunt from one officer to another, thereby, the petitioner/Government servant has been made to run from pillar to post.

10.From the perusal of the records, it is seen that the Special Commissioner of Treasury and Accounts, also ought not to have declined to sanction the amount on hyper-technical grounds. Indisputably, the hospital in which the petitioner took treatment is an accredited institution listed out in Annexure to G.O.Ms.No.88 Finance (Salary) Department, dated 20.03.2007. The Tamil Nadu Government Employees Health Fund Scheme, 1991, is a welfare legislation and therefore, in my considered opinion, the petitioner should be refunded with the medical bills and also the petitioner who had been made to run from pillar to post for his legitimate claim of medical reimbursement, should be compensated for the delay in payment of the above amount. Considering the circumstances of the case, this Court hereby suo motu impleads the Special Commissioner, Treasury and Accounts Department, Chennai, as 5th respondent in this writ petition.

11.Therefore, the impugned order in Pa.Mu.No.2574/A/2008 dated 10.01.2011 passed by the 3rd respondent is set aside and the 4th respondent is directed to re-submit the medical bills of the petitioner to the 3rd respondent, who shall reimburse the medical bills of the petitioner under the Tamil Nadu Government Employees



Health Fund Scheme, 1991, along with interest at 9% per annum from the date on which the petitioner became eligible till the date of payment, within a period of four weeks from the date of receipt of a copy of this order and the 5th respondent is directed to honour the cheque as soon as it is presented before him.

With the above direction, this Writ Petition is allowed. No costs.

Sd/-

Assistant Registrar (RTI)

// True Copy //

Sub Assistant Registrar (CS-IV)

To

- 1) The Director,
Medical and Rural Health Service,
Chennai-6.
- 2) The Director,
Tamil Nadu Fire & Rescue Service Department,
Egmore,
Chennai-8.
- 3) The Deputy Director,
South Zone,
Tamil Nadu Fire & Rescue Service Department,
Madurai-1.
- 4) The Divisional Officer,
Tamil Nadu Fire & Rescue Services,
Madurai Division,
Madurai.
- 5) The Special Commissioner,
Treasury and Accounts Department, Chennai.

+ 1 CC TO MR.T.LAJAPATHI ROY, ADVOCATE IN SR NO.87064
+ 1 CC TO SPECIAL GOVERNMENT PLEADER, IN SR NO.87557
Bala
BU/NM/SV/SAR-IV :14.11.2018 : 5P/8C

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