



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.02.2018

CORAM

THE HONOURABLE MR. JUSTICE S.M. SUBRAMANIAM

W.P(MD) No. 9175 of 2011

and

M.P(MD) No. 2 of 2011

Joseph Stalin

... Petitioner

Vs

1. The Director General of Police,
The Office of Director General of Police,
Chennai.

2. The Superintendent of Police,
The Office of Superintendent of Police,
Thanjavur District.

3. The Secretary to Government,
The Home (Police) Department,
St. George Fort, Chennai.

... Respondents

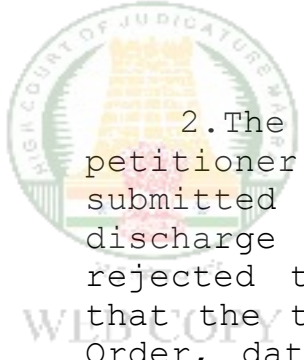
PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records on the file of the second respondent relating to the order vide Na.Ka.No.H3/37923/2004 dated 11.08.2009 and quash the same as illegal, arbitrary, unjust, improper and unconstitutional and further direct the respondents to disburse a sum of Rs.1,02,360/- towards medical reimbursement under Tamil Nadu Police Welfare Fund Scheme with interest to the petitioner.

For Petitioner :Mr.R.Suresh Kumar

For R1 to R3 :Mr.V.P.M.Vaishnavi,
Government Advocate

ORDER

The Medical reimbursement claim of the writ petitioner has been rejected by the second respondent vide proceedings, dated 11.08.2009. The writ petitioner was holding the post of Head Constable and on account of ill-health, he was admitted in Vijaya Hospital, Chennai and had undergone treatment for Coronary Artery Disease and Ectatic Coronary Arteries, for which, Coronary Angiography treatment had been provided to the writ petitioner. Accordingly, the petitioner underwent Angioplasty and PTCA Stent Treatment.



2.The learned counsel appearing on behalf of the writ petitioner states that after discharge, the writ petitioner submitted an application seeking medical reimbursement along with discharge summary and other medical bills. The respondents rejected the claim vide proceedings, dated 11.08.2009 stating that the treatment of Angioplasty was included in the Government Order, dated 08.11.2004. However, the writ petitioner underwent Angioplasty and PTCA Stent treatment on 18.09.2004 and therefore, he is not eligible for medical reimbursement claim.

3.The learned counsel for the petitioner further states that in similar circumstances, this Court passed an order in respect of the same treatment in W.P.No.1175 of 2004, dated 14.03.2005 granting medical reimbursement to one S.Radhakrishnan and the Government implemented the same and the same was admitted in paragraph-4 of the counter affidavit filed. Thus, the petitioner states that he is also entitled for the very same benefit.

4.The learned Government Advocate appearing on behalf of the respondents opposed the contention by stating that the Government Order was issued in respect of medical reimbursement claim for undergoing Angioplasty treatment on 08.11.2014. Thus, the writ petitioner is not eligible for Medical Reimbursement as per the Government Orders. The writ petitioner underwent treatment on 18.09.2004 and therefore, as on the date of treatment, there was no Government Orders in force so as to consider the claim of the writ petitioner. Admittedly, the writ petitioner is the member of the Medical Scheme. The petitioner is contributing his monthly subscribe for the medical scheme from the salary.

5. Right to life is a fundamental right enshrined in Article 21 of the Constitution of India. The Hon'ble Supreme Court of India, time and again, reiterated and emphasised that the right to life cannot be interpreted as a mere animal life and it is decent life which is to be ensured. Enlarging the scope of Article 21 of the Constitution of India, the Hon'ble Supreme Court went one step ahead and held that, providing medical facilities by the State is also to be included in right to life, thus, the medical facility to be extended to all the citizens of this great nation is also a right to life enshrined under the Constitution. The case on hand is to be considered in this perspective.

6. When the Courts have repeatedly held that the medical reimbursement is also included under Article 21 of the Constitution of India, denial of the same to be construed as violation of fundamental rights. Therefore, the Constitutional Courts cannot deal with the violation of the fundamental right of a citizen in a routine manner. Infringement of the statutory right is distinguished from the violation of the fundamental rights of the citizens. For instance, preventive detention would be treated as violation of right to life under Article 21 of the

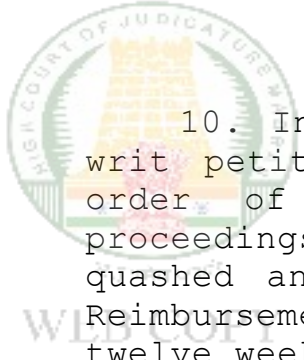


Constitution of India. The Courts have to rescue the citizens, who are put in violation of fundamental rights ensured.

7. The State in this regard should be a model employer and the insurance companies, as a State, also have a duty to deliver the schemes promptly. They cannot escape from the clutches of law on mere technicalities. This Court is aware that many countries in this world are settling the accident claims and medical insurance in advance soon after the persons are treated or met with an accident. Such a practice is not prevailing in our country for various reasons. But the constitutional goal is to achieve such a result and we should thrive towards achieving the same. This Court is of the opinion that any accident victim / medical victim has to be provided with immediate assistance by the State as well as by the insurance company. Contrarily, it is painful to observe that the insurance company and the Government think that they are not liable, despite the fact that the huge amounts of premium are collected and millions of rupees are lying in the accounts of such insurance companies. When the insurance companies are not ready to settle the claim in favour of such victims, this Court is wondering in what manner, they are going to utilise this amount for the betterment of this great nation. This court is anxious to express its concern in this regard and it is for the authorities to think over and act promptly in such cases of medical reimbursement / accident victims.

8. No doubt, it is the duty of the respondent to find out the genuinity of the treatments undergone by the petitioner and undoubtedly, it is the duty of the writ petitioner to establish that he had undergone the medical treatments and suffered monetary loss. Once the genuinity of the medical treatments undergone is established, then it is the duty mandated on the part of both the insurance company as well as the Government to see that the claims are settled in time without any further delay.

9. In this writ petition, this Court is able to see that the aged pensioners are driven to this court through this writ petition in order to get their medical reimbursement. Driving such aged pensioners to the Court by the respondent ought to be deprecated. Even after such aged pensioners have filed writ petitions, at the minimum the respondents ought to have considered the same soon after they receive notice from the High Court. Instead of doing so, they are postponing the case or seeking adjournments in order to prolong the issue, which is also to be deprecated. The respondents seeking frequent adjournment in such cases is to be viewed seriously and, the adjournments in this regard could only be an exception and can never be a rule. But this Court is frequently witnessing that such routine adjournments are sought on one pretext or other, in order to delay such claims more specifically, medical reimbursement / accident claims.



10. In view of this, the Medical Reimbursement claim of the writ petitioner cannot be denied and accordingly, the impugned order of rejection passed by the second respondent vide proceedings, in Na.Ka.No.H3/37923/2004, dated 11.08.2009 is quashed and the respondents are directed to settle the Medical Reimbursement claim of the writ petitioner, within a period of twelve weeks from the date of receipt of a copy of this order.

11. Accordingly, the writ petition stands allowed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar

To

1. The Director General of Police,
The Office of Director General of Police,
Chennai.
2. The Superintendent of Police,
The Office of Superintendent of Police,
Thanjavur District.
3. The Secretary to Government,
The Home (Police) Department,
St. George Fort, Chennai.

+1cc to Mr.R.Suresh Kumar, Advocate Sr.No.47587

AM

VB/MR/SAR3/26.02.2018/4P/5C

W.P (MD) No. 9175 of 2011
09.02.2018