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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP No.16598 of 2015

Date of decision: March 27, 2018

Sukhwinder Singh Hundal

.....Petitioner

Versus

State of Punjab and others

.....Respondents

**CORAM: HON'BLE MR. JUSTICE A.B. CHAUDHARI
HON'BLE MR. JUSTICE INDERJIT SINGH**

Present: Mr. Ashok Bazaz, Advocate for the petitioner.

Mr. H.S. Sullar, DAG Punjab.

A.B. CHAUDHARI, J (Oral)

By the present petition, the petitioner has made the prayer,
which reads thus:-

“Civil Writ Petition under Articles 226/227 of the Constitution of India, praying for issuance of a writ, order or direction in the nature of Certiorari quashing the decision of respondent No.3 taken in the meeting held on 01.12.2014 (P-2) as also the order dated 07.01.2015 passed by respondent No.2 (P-3) whereby claim of the petitioner for medical reimbursement to the tune of ₹5,44,948/- has been rejected in a totally illegal and arbitrary manner.”

In support of the petition, learned counsel for the petitioner vehemently argued that the respondents erred in rejecting his claim for reimbursement of the medical claim in the sum indicated in the prayer clause above. He submitted that the petitioner had femoral neck fracture in the accident that took place in Dubai, on 15.05.2013 and there was such

emergency that he was taken to Iranian Hospital at Dubai without any delay as delay could have been fatal. He was required to spend an amount of ₹5,44,948.50 towards hospitalization including operation charges and medicines. He, thus, claimed reimbursement of the said amount from the respondents, but he was granted only an amount around ₹1 lakh in accordance with the guidelines for making reimbursement at AIIMS Hospital, New Delhi. Learned counsel for the petitioner submitted that the petitioner ought to have been granted the complete reimbursement and at any rate, the Government has power to grant such reimbursement.

Per contra, learned counsel for the respondents opposed the petition and submitted that the relevant Rules in the matter do not permit grant of such reimbursement in respect of treatment taken outside India that too without obtaining prior sanction/permission and at any rate, according to the learned State counsel, there is no provision for taking such reimbursement and there is no policy decision of the Government as well to that effect. The stand of the respondents in the written statement, in nutshell, can be described as under:-

“3. That a perusal of the instructions issued vide letter dated 31/5/2000 (copy annexure R-2) makes it clear that medical reimbursement is admissible under the Government policy only where treatment of a disease is not available in India after the approval of State Medical Board and in the case of emergency, post-facto approval by the State Medical Board. It is emphasized in the policy that in all other cases, the employees/pensioners will not be allowed medical reimbursement. The employees/pensioners have been advised to get health insurance coverage because the State

Government in such cases will not reimburse the expenses of treatment due to some accident or disease.”

Learned counsel for the respondents, therefore, submitted that there is no merit in the petition and the same should be dismissed.

With the assistance of the learned counsel for the rival parties, I have gone through the entire record so also the stand taken by the respondents in the written statement.

At the outset, learned counsel for the petitioner was asked to point out the legal right of the petitioner to claim reimbursement on the basis of any statutory Rules, instructions or as the case may be. Learned counsel for the petitioner could point out none. Obviously, such decision affecting fiscal aspects are the matters of policy and are regulated by the State. We, therefore, find that there is no legal right of the petitioner to claim the entire reimbursement. The petitioner was paid some amount around ₹1 lakh by the respondents.

The contention raised by the State that the petitioner was required to obtain prior sanction/permission for taking treatment, is ridiculous. On 15.05.2013, the accident took place in Dubai and the petitioner was seriously injured. There is no question of taking permission/sanction as the petitioner never knew that he would meet with accident. Submission is therefore, rejected.

That apart, since we have found that there is no legal right of the petitioner, this Court would not be in a position to issue any writ much less writ in the nature of Mandamus. We, therefore, refrain from doing so.

We, however, find as stated by us above that it was misfortune of the

petitioner that he met with an accident and suffered serious injuries and was required to spend huge amounts over his treatment. It was none of his fault, but then it was his duty to get insured before his departure from the India. Be that as it may. We think, the petitioner should be relegated the remedy of approaching the State Government who is supposed to take care of its citizens. We hope and trust that the State Government would take sympathetic view in the matter and needful will be done, in the discretion of the Government. In the result, we make the following order:-

ORDER

- (i) CWP No.16598 of 2015 is disposed of;
- (ii) The petitioner is granted liberty to approach the State Government by filing a representation regarding his grievance, within a period of 6 weeks from today;
- (iii) The State of Punjab shall consider his grievance sympathetically, made through his representation, and if necessary, after hearing him, not beyond the period of four months from the date of receipt of his representation;
- (iv) No order as to costs.

(A.B. CHAUDHARI)
JUDGE

(INDERJIT SINGH)
JUDGE

March 27, 2018

mahavir

Whether speaking/ reasoned: Yes/No

Whether Reportable: Yes/No