

...

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-17604-2015

Date of Decision : November 16, 2018

Dharamvir Suhag

.... Petitioner.

Versus

State of Haryana and others.

.... Respondents.

CORAM : HON'BLE MR. JUSTICE SHEKHER DHAWAN

Present Mr. Sumit Sangwan, Advocate
for the petitioner.

Mr. Charanjit Singh Bakhshi, Addl. A.G. Haryana
for the respondents No. 1-4.

Mr. Munish Kapila, Advocate,
for respondent No.5.

SHEKHER DHAWAN, J.

Present writ petition under Articles 226/227 of the Constitution of India is for issuance of a writ in the nature of certiorari for quashing letter dated 17.06.2015 (Annexure P/1), whereby the claim of the petitioner regarding the difference of Rs.1,60,000/- on account of reimbursement of indoor medical treatment has been rejected and the order dated 11.3.2015 (Annexure P/3).

2. Facts relevant for the purpose of decision of this writ petition;

...

that the petitioner was working as Assistant in Haryana Civil Secretariat. On 17.1.2015, because of heart problem/cardiac arrest, he was admitted in the Emergency of Fortis Hospital, Mohali and remained admitted there till 19.1.2015. Two Stents, Mounted Stent Xience Xpedition 48, size 2.5x48 Ref 1070250-48 (Abbott) and Mounted Stent Xience Xpedition LL 3.0x38 Ref 1070300-38 (Abbott) for an amount of Rs.1,45,000/- each was implanted to the petitioner. However, the respondents have reimbursed an amount of Rs.65,000/- for each stent and did not allow the balance amount of Rs.1,60,000/-. As per the petitioner, Fortis Hospital is on the panel of Government of Haryana. Petitioner on his part had submitted the bills timely (Annexure P/5) of the expenditure incurred on his treatment, Essentiality Certificate (Annexure P/4) issued by respondent No. 5. He had spent a sum of Rs.3,75,187/-, but respondent no. 3 sanctioned the medical bills only for an amount of Rs.2,15,187/- vide order dated 11.3.2015 (Annexure P/3).

3. The petitioner made a representation on 3.6.2015 regarding full reimbursement of the medical bills and the remaining amount of Rs.1,60,000/-, but vide letter dated 10.9.2014 (Annexure P/8), his claim was rejected.

4. In the joint reply, respondents No.1 to 3 admitted the fact regarding claim of the petitioner and the fact of Rs. 2,15,187/- having been reimbursed to the petitioner in the month of March, 2015. However, respondents No. 1 to 3 submitted that the calculations made while arriving at the figure of Rs.2,15,187/- are as under:-

...

Sr. No.	Hospital Charges	AIIMS New Delhi. PGI Chandigarh Rates	75% of Access Amount	Reimbursable Amount
1	Package Coronary angioplasty=75000/-	As per H.D. Letter dated 06.08.2013 package rate 75000/-	-	75000/-
2	Room Rent (ICU)=3000/- Ward Room Rent=1000/-	As per H.D. letter dated 06.08.2013 package rate 3000/- As per H.D. letter dated 06.08.2013 package rate 1000/-	- -	3000/- 1000/-
3	Consumables Mounted Stent Xience (ABBOTT Total 2 Stents) =145000x2 =290000/- Conmedinycomed=5544/-	As per H.D. letter dated 06.08.2013 package rate 65000/- per 65000x2=130000/- R	-	130000/- 5544/-
4	Medicines=643/-	R	-	643/-
5	Dr. & Registration Fees =660/-	NR	-	--
	Total = 3,75,187/-			2,15,187/-

5. As per the respondents, the petitioner had submitted the bill of Rs.2,90,000/- (Rs.1,45,000 x 2) for implantation of two stents, but the respondents have reimbursed an amount of Rs.1,30,000/- (Rs.65000x2) i.e., the cost of two stents as admissible to the petitioner in accordance with Health Department instructions dated 6.8.2013 (Annexure P/7) and the reimbursement was made as per rules/policies/instructions of the State Government. As such, the petitioner is not entitled to re-imbursement of the remaining amount of Rs.1,60,000/- and prayed that the present writ petition be dismissed.

6. In the reply filed by respondent No.5, i.e. Fortis Hospital,

...

Mohali, it has been contended that at the time of Angioplasty procedure after doing balloon angioplasty it became apparent that lesion length which needed to be stented was significantly longer than 28mm. Considering this fact, there were two options available one was to use two Xience V stents in one artery to cover the entire diseased segment or to deploy one long stent for the same. It is submitted that the same company i.e. ABOTT Vascular has come out with a next generation stent by the name of Xience Xpedition which is available in longer lengths of 33 mm, 38 mm and 48 mm. The price of each stent is Rs.1,45,000/-. Considering the fact that using one long stent would not only be technically superior but also cost effective to the petitioner, the same was deployed. Therefore two stents namely Xience Xpedition 48 2.5 mm x 48 mm and Xience Xpedition LL 3.0 mm x 38 mm were deployed to LAD and RCA and the total bill came to the tune of Rs.3,74,544/- which was paid by the petitioner/his attendants to the Hospital without any protest. Respondent No. 5 also contended that as far as reimbursement of the Rs.65,000/- for each stent is concerned, it has been submitted that the same is between the petitioner and Haryana Government and prayed that the present writ petition be dismissed qua respondent No.5.

7. Having considered the submissions made by learned counsel for the parties and appraisal of the record, this Court is of the considered view that most of the facts are not disputed that the petitioner was admitted in respondent No. 5 – Fortis Hospital for serious heart problem in the emergency and he was given treatment by respondent No. 5 which is

...

on the panel of respondent – State. The petitioner had to make payment of Rs.3,74,544/- on his treatment and he has been reimbursed only Rs.2,15,187/- leaving difference of Rs.1,60,000/- the claim for which has been rejected by the respondent-State. Learned counsel for the petitioner had taken the plea that the petitioner got the medical treatment under compelling circumstances from panel hospital and as per the package approved by the State Government, the entire medical expenses incurred by the petitioner were to be reimbursed.

8. As per instructions dated 6.8.2013 (Annexure P/7) circulated by Principal Secretary to Government, Health Department, Haryana to all the Heads of Departments and other field officers, guidelines were issued for implementation of package rates in the empanelled hospitals. As per the above guidelines, the empanelled hospitals were to charge an employee as per the fixed package charges and the same would be fully reimbursable to the employees/pensioners and their dependents. The guidelines for implementation of package rates are as under:-

- “a. The empanelled hospitals shall charge at package rates from employees/pensioners and their dependents to provide treatment on these 21 procedures listed in the table below. It is not applicable to procedures, which are not covered under packages rates.
- b. “The Package rate” shall mean and include lump sum cost of inpatient treatment/ day care/ diagnosis procedures for which a patient goes to hospitals. This includes all charges pertaining to a particular treatment/procedure including admission charges, visit fee/ consultation fee, patient's diet, monitoring charges, preoperative investigation charges, investigation

...

charges, operation charges, anesthesia charges, operation theater charges, procedural charges/ surgeon's fee, cost of surgical disposals and all sundries used during hospitalization, consumables, gas charges, surgical charges, cost of medicine used during hospitalization/ physiotherapy charges, Nursing care charges for its services, cost of implants except where mentioned against each rate etc.

- c. The cost of coronary stents shall be allowed upto a maximum of three stents.”

9. As per the above package guidelines, the petitioner is certainly entitled to get reimbursement of the entire amount from the State government, but he has not been paid the same.

10. During the proceedings of the case, one short reply dated 11.08.2017 by way of affidavit of Dr. Vijay Garg, Director Health Service, Panchkula has been filed clearly admitting that respondent No. 5 has over-charged the price of stent fixed by the State Government. The relevant para No. 1 of the affidavit dated 11.08.2017 is extracted below:-

- “1. Briefly speaking facts of the case are that the petitioner is serving as an Assistant in Haryana Civil Secretariat, Chandigarh and as per record, petitioner underwent CAG and he remained admitted in Fortis Hospital, Mohali from 17.01.2015 to 19.01.2015. Fortis Hospital, Mohali (respondent N0.5) charged RS.2,90,000/- for Consumables i.e. Two MOUNTED STENT XIENCE (Rs.1,45,000/- each) implanted to the petitioner as is evident from bill details dated 19.01.2015 (Annexure P5) which is more than the price fixed by the State Government. Thus, Fortis Hospital has overcharged the price of stent fixed by the State Government. **Thus,**

...

Fortis Hospital has overcharged the price of stent fixed by the State Government.”

11. Strangely enough, the respondent-State having observed that Fortis Hospital has over-charged the price of the stents fixed by the State Government is still continuing to keep and maintain the said hospital on the panel of the State Government. Needless to mention that it was certainly a serious complaint against the hospital by an employee who had undergone medical treatment from the empanelled hospital as per guidelines of the State Government. It was for the respondent-State to take up the matter with respondent No. 5 and to take corrective steps so that similarly situated employees may not have to suffer in such extreme emergent cases. But at any rate, the petitioner is certainly entitled to get full reimbursement of entire amount spent on medical treatment and it was for the respondent-State to recover the said amount or take required action against respondent No.5.

12. Similar matter was before Hon`ble Division Bench of this Court in **Ayoudhia Prasad Duggal Vs. CAT, Chandigarh and others, 2017(3) PLR 292** and it was observed as under:-

“10. In this view of the matter and considering that it was the categoric contention of the Petitioner that the MRI compatible Pacemaker as well as Stents were installed strictly as per the recommendation of the Treating Surgeon, taking into account the situation prevailing at the time of Operation, we have no hesitation in coming to the conclusion that the purported letters of Consent/Undertakings signed by the Petitioner's Attendants on 1.8.2013 and 20.9.2013 cannot become a hindrance to him for the purpose of seeking disbursement, since the same were

...

undoubtedly signed under grave mental pressure and fear at the relevant time of Operation, considering the patient's actual situation, and also as a result of aggressive or forceful representation from the side of the Hospital Authorities or the Treating Surgeon(s). We are therefore, inclined to concur with the decision of the Delhi High Court in a substantially identical matter being 'Daljit Singh v. Govt. of N.C.T. of Delhi and others', WP (C) No. 16651/2006 in which, relying upon an earlier decision in the case of 'State of Punjab and others v. Mohan Lal Jindal' 2001(9) S.C.C. 217 wherein the stand of the Government in refusing to reimburse the in-patient charges for the treatment in the said Hospital was rejected and the Government was held to be under a constitutional obligation to reimburse the expenses since the right to health is an integral to the right of life, it was observed -

"14. The undisputed position that emerges is that a patient is entitled to reimbursement of the full amount of medical expenses and not only at the rates specified in the circular of 1996 and in case respondent No. 2 has charged a higher rate, than could have been charged, it is for respondent No. 1 to settle the matter with respondent No. 2. The petitioner cannot be deprived of the reimbursement.....

4. In view of the above it is no longer res integra that merely because the Government does not revise the package deal amount under the Medical Attendance. Rules from time to time a person cannot be denied actual medical costs, and there has to be reimbursement of the actual medical expenses incurred."

13. Identical view was taken by Hon`ble Division Bench of this Court in Om Parkash Goyal Vs. State of Haryana etc., 2009(1) SCT 372.

14. In view of the above, the present writ petition is accepted and respondents No.1 to 4 are directed to reimburse the remaining amount of Rs.1,60,000/- to the petitioner, within a period of two months alongwith interest @ 9% per annum from the date of submission of bills till the date of

...

actual payment.

15. Further, the respondent – State is directed to take corrective steps qua empanelment of Fortis Hospital, respondent No. 5 expeditiously.

(SHEKHER DHAWAN)
JUDGE

November 16, 2018.
som

Whether speaking/reasoned?	:	Yes
Whether reportable?	:	Yes