IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 6705 of 2016
Date of Decision : 07.12.2018

Raj Kumar
...Petitioner

Versus

State of Haryana and others
...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Sandeep Singal, Advocate for the petitioner.

Mr. Sunil Kumar Vashisht, Deputy Advocate General, Haryana.

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Harsimran Singh Sethi, J.(Oral)

In the present case, the petitioner is challenging the order dated 20.11.2015 by which the claim of the petitioner for medical reimbursement amounting to ₹2,39,675/- has been rejected on the ground that the treatment has been taken from an un-approved hospital and that too in a non-emergent case.

The facts which have been mentioned in the present writ petition are that the petitioner was serving as an Excise and Taxation Officer with the respondent-department and on 17.01.2015, petitioner was diagnosed by the Doctor of PGIMS Rohtak to be suffering from chronic spine problem. As per the averments made in the writ petition, there was no super specialty spine surgery available in Rohtak, therefore, the petitioner consulted a Doctor in an un-approved hospital, who advised spine surgery and the petitioner got the surgery done from Ganga Medical Center and

Hospital Pvt. Ltd., Coimbatore, Tamilnadu on 18.06.2015. After the treatment, the petitioner submitted the medical bills for reimbursement.

Before proceeding further, it is noticed here-in that for the medical reimbursement, the Govt. of Haryana has issued a policy on 06.05.2005. According to the said policy, the guidelines have been given as to what amount spent on medical treatment can be reimbursed. As per para 2 of the said policy, the reimbursement of the medical treatment undertaken in the Govt. Hospitals have been prescribed and in para 3 of the said policy, the medical treatment undertaken in the approved hospitals have been mentioned. In respect of un-approved hospitals, it has been mentioned in the policy that only the treatment, which was taken in emergency, the reimbursement will be done at rates applicable in PGI, Chandigarh. The relevant clause 4 of the said policy is as under :-

> *"4. Un approved Hospitals.*
>
> *a) The reimbursement for the treatment taken in an emergency in an unapproved hospital will be allowed equal to PGI, Chandigarh rates with the approval of the finance Department.*
>
> *b) Head of the department in consultation with concerned Civil Surgeon is competent to certify an emergency."*

A bare perusal of the above would show that the Civil Surgeon is to certify that the treatment taken was in emergency from an un-approved hospital.

After the medical bills were submitted by the petitioner for reimbursement, the respondents considered the issue and passed an order on 20.10.2015 in which it was stated that after going through the medical record produced by the petitioner, the treatment undertaken by the petitioner was not in an emergency and, therefore, the case of the petitioner is not covered for reimbursement of the medical bills. After the said decision was taken by the Civil Surgeon, the petitioner was informed on 20.11.2015 that the petitioner is not entitled for the medical reimbursement and all his medical history submitted for reimbursement of the amount was returned to the petitioner. It is this action of the respondent, which is under challenge in the present writ petition.

I have heard learned counsel for the parties and have gone through the case file very carefully.

Learned counsel for the petitioner submits that the treatment which was taken by the petitioner was emergent in nature keeping in view the certificate which was given by the Doctor at Max Health Care Institute, which the petitioner has attached as Annexure P-2 and, therefore, the case of the petitioner is duly covered under the policy mentioned above and the petitioner is entitled for reimbursement of the bills.

Learned counsel for the petitioner has also taken an alternative argument that if the petitioner is not entitled for medical reimbursement of the amount which the petitioner has spent in an un-approved hospital, the petitioner is still entitled for the amount at PGI, Chandigarh rates which cannot be denied to the petitioner under any circumstances.

Argument raised on behalf of learned counsel for the petitioner cannot be accepted. The medical reimbursement can only be done as per the scheme/policy of the State. The conditions of medical reimbursement as enumerated in the said policy clearly states that if a treatment is undertaken in an un-approved hospital, the reimbursement will only be done in case there was an emergency and, therefore, in the present case the certificate, which has been given by the Civil Surgeon clearly states that in the present case, there was no emergency. The case of the petitioner does not fall within the four walls of entitlement criteria as enumerated in the policy issued by the State of Haryana (Annexure P-5). The claim of the petitioner that he got the medical treatment under emergency cannot be believed. This is for the reason that petitioner got himself checked up in PGIMS Rohtak for the same ailment on 17.01.2015 but he did not get the treatment from there and instead went to Tamilnadu for the surgery. It cannot be believed that the petitioner, who is living in Rohtak, will travel to Tamilnadu in case of emergency and, therefore, the finding recorded by the Civil Surgeon that this is not the case of emergency, cannot be faulted and hence, the case of the petitioner is not covered under Clause 4 of the policy in respect of the treatment undertaken at an un-approved hospital.

The next argument which has been raised by the counsel for the petitioner that at least the petitioner is entitled for the amount at the PGI, Chandigarh rates, this arguments also cannot be accepted in view of the policy, which has been issued by the State of Haryana. The medical reimbursement is a concession which has been given by a State to its employees and retired employees. Unless and untill the case falls within the four walls of the said policy, the reimbursement cannot be made. The treatment undertaken in an un-approved hospital cannot be reimbursed at all except in the case of emergency, therefore, the argument that the petitioner is entitled for the reimbursement at PGI Chandigarh rates is also liable to be rejected as the same is not covered under the policy.

Learned counsel for the petitioner relies upon the judgment of this Court in CWP No. 10745 of 2007, decided on 19.02.2009, wherein an employee who got admitted in Fortis Hospital for the knee replacement was allowed at PGI/AIIMS rates. The said judgment is distinguishable on facts as in that case, the employee had fell down and it is under those circumstances that in view of the accident, the immediate treatment was taken from the un-approved hospital. Similarly, the facts in the case relied by the petitioner as Annexure P-9 CWP No. 130 of 2011, decided on 25.07.2013, is also a case of accident where the wife of the petitioner therein had fell in the bathroom and keeping in view the severe pain in both knees, she was got admitted to an un-approved hospital. The facts in the present case are entirely different and, therefore, the judgments being relied by learned counsel for the petitioner are not at all application in the present case.

Learned counsel for the respondents has brought to the notice of this Court the order passed by a Co-ordinate Bench while deciding CWP No. 11193 of 2012 decided on 09.04.2014. In the said case, the treatment was undertaken in an un-approved hospital, where there was no case of emergency.

This Court declined the relief of reimbursement on the ground that the employee has to bring his case within four walls of the policy and no relief can be given in case the reimbursement is not covered under the said policy. The relevant paragraph of the said judgment reads as under :-

> *"The stand of the respondents is fully justified and in accordance with the policy dated 06.05.2005 (Annexure R-1) appended along with the written statement. For an employee to be entitled to grant of medical reimbursement, the claim of such an employee should be covered by the policy of the*

Government as has been held by the Hon'ble Supreme Court in Mahesh Kumar Sharma's case (supra). On both the counts i.e. treatment taken from an unapproved hospital and that too not in an emergency situation, the claim of the petitioner cannot be accepted. The Civil Surgeon, Gurgaon, has categorically, on the basis of the opinion of an expert, come to a conclusion that the expenditure which was incurred by the petitioner on the treatment of his son was not in an emergent situation."

Keeping in view the above, I am of the view that no fault can be found with the impugned order.

Accordingly, the present writ petition stands dismissed.

December 07, 2018 **(HARSIMRAN SINGH SETHI)**
kanchan **JUDGE**

Whether speaking/reasoned? *Yes/No*
Whether reportable? *Yes/No*