

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

(210)

CWP-7266-2016

Date of Decision: November 30, 2018

Dharamvir Singh

..Petitioner

Versus

State of Haryana and others

..Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. J.P. Sharma, Advocate, for the petitioner.

Mr. Ravi Dutt Sharma, DAG, Haryana.

HARSIMRAN SINGH SETHI, J.(ORAL)

In the present writ petition, the petitioner is challenging the order dated 23.06.2015 (Annexure P-1) passed by respondent No.6 by which the petitioner has been denied the Emergency Certificate for the treatment which the petitioner underwent in Shroff Eye Centre, New Delhi on 21.11.2014.

As per the claim made in the writ petition, the petitioner was working as a Science Teacher in the Government Middle School, Singhpura Kalan, District Rohtak. As per the allegations made, the petitioner was having an eye problem and was under regular treatment. On 21.10.2014, the petitioner was in Delhi and due to aggravation of the eye problem, the petitioner rushed to the Shroff Eye Centre, Delhi and was admitted in the hospital and on the same day the urgent surgery was undertaken. Thereafter, the petitioner was discharged.

After the surgery, due to development of a macular hole, the petitioner again admitted in Shroff Eye Hospital, Delhi on 20.11.2014 and an emergency surgery was done and in this regard the petitioner has

attached a certificate from the said hospital dated 21.11.2014. As per the certificate given by the said hospital, the petitioner needed an urgent surgery.

The petitioner in his petition stated that on the said surgery, the petitioner had spent an amount of Rs.1,14,263/- and the bills for the same were submitted to the respondents-State for reimbursement. As the surgery was done from a non-Government hospital, in order to release the amount, the petitioner needed a certificate from the Civil Surgeon that the ailment for which the petitioner got treatment, was emergent in nature and therefore the petitioner who got treatment from a private hospital, was entitled for the reimbursement.

Civil Surgeon, Rohtak vide order dated 23.06.2015, after going through the record and the treatment/surgery undertaken by the petitioner, came to the conclusion that the ailment was not of an emergent nature which required immediate surgery and the surgery can only be advised. The opinion of the Civil Surgeon, Rohtak is as under:-

“Patient underwent vitreoretinan Surgery for vitreous hemorrhage with tractional/retinal detachment in the left eye on 21.10.2014 at Shroff Eye Hospital, New Delhi. The pt. Developed a macular hole post vitrectomy in the left eye and underwent internal limiting membrane peeling and gas injection in the left on 20.11.2014 at the same institute.

It may be pointed out that the vitreous hemorrhage is not ocular emergency and surgery is advised for it only if it fails to clear after three months, a condition known as non resolving vitreous hemorrhage.

Tractional retinal detachments are to be operated only if they threaten or involve the macula. These retinal detachments progress slowly usually over a period of

weeks to months and do not lead to acute visual loss.

Macular hole in the absence of retinal detachment also does not lead to sudden irreversible visual loss and does not constitute an ocular emergency.”

In the present writ petition, the opinion so given, reproduced above, is under challenge.

The respondents in the reply to the writ petition have submitted that once the competent authority has come to the conclusion that the ailment for which the petitioner got surgery done in a private hospital, for which the reimbursement was being sought for, is not of an emergent nature, thus no reimbursement can be granted and therefore, in view of the non-issuance of the emergency certificate by the competent authority, the claim of the petitioner for reimbursing of the amount of Rs.1,14,263/- cannot be accepted.

I have heard learned counsel for the parties and gone through the record.

It has been admitted by the petitioner that unless and until the treatment which an employee undertakes from a private hospital is of emergent nature, the reimbursement cannot be done.

Learned counsel for the petitioner relies upon the certificate given by Shroff Eye Hospital, Delhi Annexure P-2 to contend that the said hospital was of the view that the petitioner needs immediate surgery and on the recommendation of the said hospital, the petitioner underwent the said surgery on 20.11.2014. Therefore, the certificate which has been issued by the Civil Surgeon, Rohtak Annexure P-1 dated 23.06.2015 cannot be taken into consideration and the petitioner is entitled for the reimbursement of the claim.

I am afraid that the contention of learned counsel for the petitioner cannot be accepted. Once an expert body of State of Haryana, after going through the medical record, has found that the condition of the petitioner was not such that it needed immediate surgery and therefore this Court cannot interfere or disbelieve the certificate given by the Civil Surgeon. The reasons have also been given by the Civil Surgeon, Rohtak to come to the conclusion as to why the situation of the petitioner was not such that it needed immediate surgery.

This Court in **Civil Writ Petition No.11193 of 2012 decided on 09.04.2014 tilted as Sohan Lal Vs. The Director of Secondary Education Haryana and another** has come to the conclusion that unless and until the situation of an employee that he/she need an emergency treatment then only the bills of the treatment undertaken from an unapproved hospital can be reimbursed and that too as per the Government policy. Further, the opinion of the Civil Surgeon, Rohtak cannot be faulted merely on the asking of an employee. The relevant paragraph of the said judgment is as under:-

“The stand of the respondents is fully justified and in accordance with the policy dated 06.05.2005 (Annexure R-1) appended alongwith 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.

In view of the above, finding no merit in the present writ petition, the same stands dismissed.”

Keeping in view the above, once the competent authority has come to the conclusion that the medical situation of the petitioner was not such, that it would entail immediate medical treatment from unapproved hospital, this Court cannot interfere in the said conclusion.

The writ petition stands dismissed.

November 30, 2018
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No