

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.04.2019

CORAM

THE HON'BLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.No.8226 of 2019

P.Arumugam

...Petitioner

Vs.

- 1.The Director of Pension
The Directorate of Pension
DMS Campus, 259, Anna Salai
Chennai-6.
 - 2.The Principal Secretary / Commissioner of Treasuries
and Accounts
Integrated Complex for Finance Department
Veterinary Hospital Campus
Nandanam, Chennai-35.
 - 3.The District Treasury Officer
Salem
Salem District.
 - 4.The Joint Director of Health Services
O/o. The Joint Director of Health Services
Salem, Salem District.
- ...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents to reimburse the Medical Expenses incurred by the petitioner for Angioplasty and Open Heart Surgery along with interest from the date of remittance of the amount to the Hospital by the petitioner, till the date of payment.

For Petitioner : Mr.V.Ravikumar
For Respondents : Mr.V.Prabhu
Government Advocate

O R D E R

The petitioner seeks for a mandamus directing the respondents to reimburse the Medical Expenses incurred by him for Angioplasty and Open Heart Surgery along with interest from

the date of remittance of the amount to the Hospital, till the date of payment.

2. Heard the learned counsel for the petitioner and the learned Government Advocate for the respondents.

3. The case of the petitioner is as follows:

The petitioner was worked as a Middle School Head Master and on attaining the age of superannuation, retired from service on 30.06.2010. As per G.O.Ms.No.171 Finance (Pension) Department, dated 26.06.2014, the petitioner, as a pensioner, is entitled to Health Care Assistance on cashless basis. The petitioner suddenly suffered with chest pain and was admitted in the G.Kuppusamy Naidu Memorial Hospital, Coimbatore and he underwent Angioplasty on 21.06.2018. Thereafter, he underwent an Open Heart Surgery in the very same Hospital on 25.06.2018. The petitioner was discharged from the Hospital on 03.07.2018. Towards Angioplasty and Open Heart Surgery, the petitioner paid a sum of Rs.2,38,160/- including medicines and Hospital expenses to the Hospital. Therefore, the petitioner is entitled to reimbursement of the medical expenses sustained to the tune of Rs.2,38,160/-. Hence, the petitioner made a representation dated 01.12.2018 to the respondents to re-pay the said sum. However, the said request was not considered only on the reason that the petitioner got admitted in a non-network Hospital and got treatment therein. Therefore, the present writ petition is filed before this Court.

4. The learned counsel for the petitioner reiterated the above contentions and submitted that even though the petitioner got treatment in the non-network Hospital, the medical reimbursement claim cannot be denied, as the respondents are bound to disburse the amount under the Medical Attendant Rules, as has been held by this Court in several identical cases.

5. The learned Government Advocate for the respondents, based on written instructions, submitted that the petitioner has taken the treatment in the non-network Hospital and therefore, there is no scope for getting the reimbursement amount. However, the learned Government Advocate submitted that in view of the order passed in W.A.(MD) No.162 of 2019 dated 18.02.2019, the petitioner is entitled to get reimbursement under the Medical Attendant Rules. He has also produced a copy of the said order passed by the Division Bench.

6. Perusal of the said order passed by the Division Bench would show that the respondent therein took treatment in a non-network Hospital and therefore, his claim for medical reimbursement was not approved. Though the learned Single Judge directed the respondent therein to reimburse the medical expenses, when the said order was challenged in the above writ appeal, the Division Bench while dismissing the writ appeal has however, modified the order passed in the writ petition to that effect that the reimbursement shall be made by the appellants therein under the Medical Attendant Rules. Paragraph Nos. 2 to 5 of the said order reads as follows:

"2.The respondent filed a Writ Petition for issuance of a Writ of Certiorarified Mandamus to quash the proceedings of the first respondent, dated 9.6.2017 and to issue a direction to the respondents to give the medical reimbursement amount of Rs.1,45,089/-.

3. It is not in dispute that the Petitioner/respondent herein is a retired Government servant and she was in service as a Nurse in Government of Tamil Nadu. While she was in service and after retirement, as a pensioner, is also paying the subscription of National Health Insurance Scheme, without any default. It is stated by the respondent that on 2.9.2014, she suffered a Heart Attack and she was admitted in the hospital namely, Amirtha Institute of Medical and Research Centre, Kochin, for undergoing a surgery. Though it is stated that she has spent a sum of Rs.1,45,089/- for her treatment, the medical reimbursement application filed by the respondent herein was rejected by the impugned order, dated 8.6.2017, on the ground that the hospital in which the respondent took medical treatment was not a network hospital and that therefore, her claim for medical reimbursement could not be accepted.

4.The learned Single Judge, after referring to the settled position of law, allowed the Writ Petition filed by the respondent and directed reimbursement of the amount namely Rs.1,45,089/- to the respondent within a period of eights from the date of order. Challenging the said order, the learned Special Government Pleader appearing for the appellants submitted

that the Insurance Company cannot be made liable, in view of the specific contract entered between them. It is true that the Insurance Company cannot be made liable. It has been held in several precedents that in a case, where the medical reimbursement claim cannot be considered and disbursed by the Insurance Company, the Government has to make payment under the Medical Attendant Rules. Hence, we do not find any merit in this appeal. When the amount cannot be reimbursed by the Insurance Company, it is for the Government to consider the application and disburse the amount under the Medical Attendant Rules. The fact that the Petitioner has spent the amount as mentioned in the Petition, is not in dispute.

5. In view of the above, the Writ Appeal is dismissed and the order passed by the learned Single Judge in the above Writ Petition is sustained, with the modification that the amount spent by the respondent herein is directed to be disbursed by the appellants under the Medical Attendant Rules. No costs. Consequently, connected Miscellaneous Petition is dismissed."

7. In view of the above stated facts and circumstances and the order passed by the Division Bench as extracted supra and in view of the fact that the only reason for not considering the petitioner's request was that he took treatment in the non-network Hospital, this Court is of the view that the decision of the Division Bench, is squarely applicable to the petitioner's case and consequently, he is entitled to get the amount legally entitled to and to be disbursed by the respondents under the Medical Attendant Rules. Accordingly, this writ petition is allowed and the respondents are directed to consider the claim of the petitioner for medical reimbursement and grant the eligible amount under the Medical Attendant Rules. The said exercise shall be made by the fourth respondent within a period of eight weeks from the date of receipt of a copy of this order. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

mk

To

1.The Director of Pension
The Directorate of Pension
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Chennai-6.

2.The Principal Secretary / Commissioner of Treasuries
and Accounts
Integrated Complex for Finance Department
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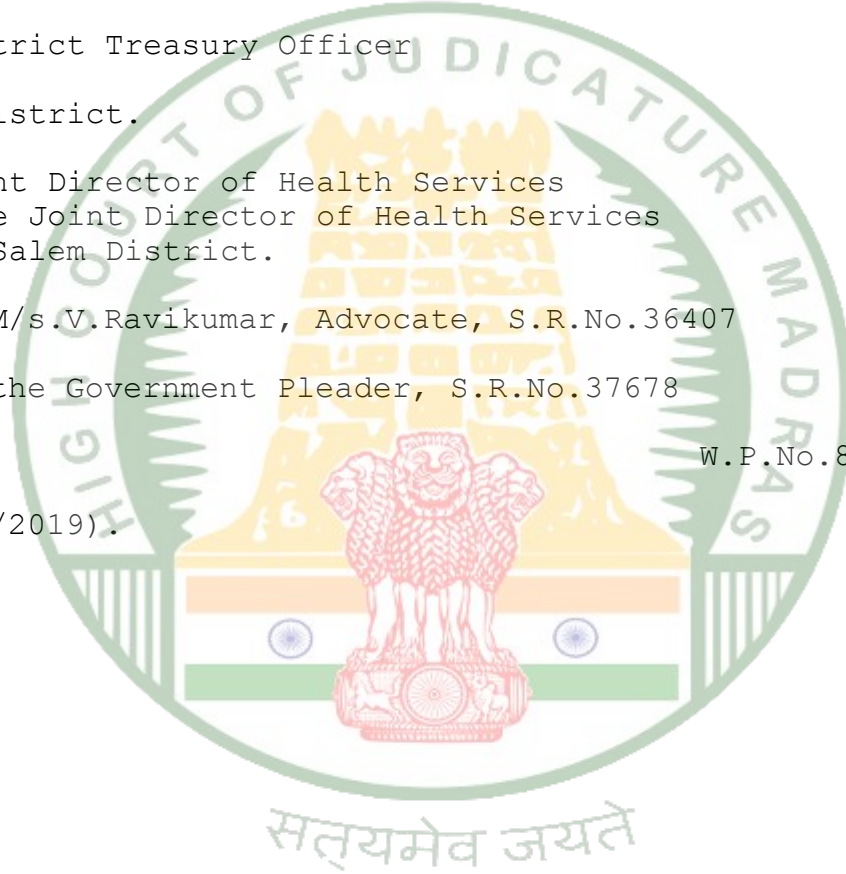
4.The Joint Director of Health Services
O/o. The Joint Director of Health Services
Salem, Salem District.

+1 cc to M/s.V.Ravikumar, Advocate, S.R.No.36407

+1 cc to the Government Pleader, S.R.No.37678

W.P.No.8226 of 2019

VSN-II (CO)
SSM(29/05/2019).



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