

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 22.02.2019

CORAM

THE HONOURABLE Mr.JUSTICE D.KRISHNAKUMAR

W.P.No.11187 of 2014

M.Kathirvelu

.. Petitioner

Vs

1.The Accounts Officer,
Public Department,
Pension Section,
Corporation of Chennai,
Ripon Buildings, Chennai-3.

2.The State of Tamil Nadu,
Finance (Pension) Department,
Teynampet, Chennai-6.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus to call for the records of the 1st respondent relating to the letter Po.Thu.Na.Ka.No.B4/29935/13 dated 08.11.2013 rejecting the claim of the petitioner and quash the same, and consequently directing the first respondent to pay to the petitioner the medical reimbursement for the surgery undergone by him.

For Petitioner : Ms.D.Veda

For 1st Respondent : Mrs.Karthika Ashok,
Standing Counsel

For 2nd Respondent : Mr.B.Anand, GA

O R D E R

The Writ Petition has been filed against the order of the 1st respondent dated 08.11.2013, rejecting the claim of the petitioner for reimbursement of the amount spent by him for segmental resection surgery on 01.06.2012, on the ground that the surgery underwent by the petitioner is not in the approved list.

2.The learned counsel for the petitioner would submit that the petitioner had joined in the Chennai Corporation in 1989 and had attained superannuation on 30.04.2012, as Play Ground Assistant in the corporation stadium and underwent segmental resection surgery in the stomach on 01.06.2012 and was hospitalised for 10 days at Billroth Hospitals. In this regard, the petitioner sent a representation on 29.09.2013 to the 1st respondent along with requisite bills and certificates, for reimbursement of medical expenses. But, the respondent has rejected the said representation on 08.11.2013 stating that the surgery undergone by the petitioner was not registered under G.O.No.378, Finance (Pension) Department dated 13.10.2005. Though the petitioner has brought to the notice of the 1st respondent that the Government of Tamil Nadu has passed another G.O.No.477, Finance (Pension) Department dated 30.09.2009 granting powers to the Director of Pension to sanction pending claims as well as future claims for medical assistance from the pensioners in respect of ineligible treatments as well as eligible treatments taken in unaccredited institutions, both within the State as well as outside the State, his request was declined stating that the surgery underwent by the petitioner was not listed under G.O.No.378, Finance (Pension) Department dated 13.10.2005 and G.O.No.477, Finance (Pension) Department dated 30.09.2009. Challenging the same, the present writ petition is filed before this Court.

3.The learned Standing Counsel appearing for the 1st respondent would submit that the G.O.No.477, Finance (Pension) Department dated 30.09.2009 is not applicable to the petitioner/pensioner of Chennai Corporation and therefore, the petitioner is not entitled for reimbursement.

4.The learned Government Advocate appearing for the 2nd respondent would submit that this issue has been addressed to the Government by the 2nd respondent, to extend the benefits ordered in the G.O.No.477, Finance (Pension) Department dated 30.09.2009 to the retired staff of Corporation also. He would further contend that on receipt of the clarification from the Government, necessary orders will be issued in the petitioner's case and therefore, the writ petition is liable to be dismissed.

5.The learned counsel for the petitioner would strongly contend that the petitioner is eligible for reimbursement of the medical expenses, by relying on the decisions of this Court in W.P.(MD) No.234 of 2010 and W.A.(MD).No.1382 of 2017. The

learned counsel for the petitioner also brought to the notice of this Court that the said Government Orders have been communicated for compliance to the Commissioner, Corporation of Chennai/ Madurai/Coimbatore/Tiruchirappalli/Salem/Tirunelveli and therefore, the petitioner is entitled for claiming medical expenses.

6.As rightly submitted by the learned counsel for the petitioner, the said Government Orders will apply to the petitioner. She would further contend that this Court, while dealing with the similar issue, in W.A.(MD). No.1382 of 2017, by judgment dated 09.11.2017, has elaborately considered and issued direction to sanction the medical expenses incurred by the petitioner, as per eligibility criteria as regards the scheme together with interest at 6% p.a. and in W.P.(MD) No.234 of 2010, by order dated 29.09.2010, the respondent was directed to reimburse the sum claimed by the petitioner, subject to the limitation prescribed under the Scheme.

7.Hence, this Court has no hesitation to quash the impugned proceedings of the 1st respondent dated 08.11.2013 and accordingly, this Writ Petition is allowed and the 1st respondent is directed to consider the petitioner's claim in the light of the order dated 09.11.2017 passed in W.A.(MD). No.1382 of 2017 and to sanction the medical expenses incurred by him, as per the eligibility criteria under the Scheme along with interest at 6% p.a. within a period of twelve weeks from the date of receipt of a copy of this order. No costs.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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To

1.The Accounts Officer,
Public Department,Pension Section,
Corporation of Chennai,
Ripon Buildings,
Chennai-3.

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2.The Finance (Pension) Department,
State of Tamil Nadu,Teynampet, Chennai-6.

+1 cc to M/s.D.Veda, Advocate Sr.No.16595
+1 cc to The Government Pleader, Sr.No.17033
+1 cc to M/s.Karthikaa Ashok, Advocate Sr.No.16683

W.P.No.11187 of 2014

SJ(CO)
CSL/09.04.2019



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