

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.11.2019

CORAM

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.No.33514 of 2019

C.Arumugam

... Petitioner

Vs.

1.The Government of Tamil Nadu
rep. by its Secretary
Finance (Pension) Department
Fort St. George, Chennai 600 009

2.The Joint Director of Medical and Rural
Health Services Department
Coimbatore - 18

3.The District Treasury Officer
District Treasury
Coimbatore

4.The United India Insurance Company Ltd.,
Rep. by Managing Director
Chennai.

...Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order in bearing O.Mu.No.460/f4/2017 dated 06.04.2017 passed by the 2nd respondent and quash the same and consequently direct the respondent to sanction and reimburse the medical expenses incurred by the petitioner with 9% interest.

For Petitioner : Mr.V.Thirupathi

For Respondents : Mr.R.S.Selvam, G.A.

O R D E R

By consent of both sides, the writ petition is taken up for final disposal at the admission stage itself.

2.It is seen that the petitioner is a Government Servant. His wife was admitted at G.K.Kuppusamy Naidu Memorial Hospital for heart attack. Thereafter, she was discharged from the said hospital. The petitioner incurred a total medical expense of about Rs.4,07,605/-. When the petitioner applied for reimbursement, the 2nd respondent has passed the impugned order, dated 06.04.2017, stating that the petitioner's wife had taken treatment in a non-listed hospital, as per G.O.Ms.No.174, Finance Department, dated 28.04.2008 and such limitation is illegal and not sustainable. Hence, the petitioner is before this Court with the present Writ petition for the aforesaid relief.

3.The learned Government Advocate appearing for the respondents would submit that the Government having entered into a contract with the Insurance Company and having paid huge amount to them, cannot be compelled to reimburse the amount. He would further submit that there are number of net work hospitals in the State and it is impermissible for the Government employees to choose their own hospitals for treatment and thereafter, claiming reimbursement. If this practice is allowed, then the very purpose of entering into the contract with the Insurance Company will be defeated.

4.Heard the learned counsel on either side.

5.This Court in the case of B.Sarada Vs. The Director of Pension, DMS Complex, Thenampet, Chennai and others (W.P.(MD) No.125 of 2017 dated 27.02.2017) has observed as follows:

"3.While dealing with the similar issue of medical reimbursement, I have considered all the aspects, referred to various judgments of the is court and passed an elaborate order in W.P.No.2059 of 2017 (T.Balamani Vs. The Principal Secretary to Government, Finance (Salaried) Department, Secretariat, Chennai and others decided on 27.02.2017 and directed the Government to sanction the amount to the petitioner therein. The order passed by me is extracted below:

"The petitioner seeks to quash the impugned order dated 04.10.2016, by which, her request for medical reimbursement was rejected on the ground that the hospital, in which, the underwent treatment is not an approved hospital. The petitioner also sought a direction to the 1st respondent to reimburse the

medical expenses of Rs.4,44,965/- to the petitioner with adequate interest.

2.The petitioner who has an employee during the period of treatment and now attained superannuation, has approached this Court against the rejection order in respect of her medical claim for the treatment. The request of <http://www.judis.nic.in> the petitioner has been rejected by the Government followed by the rejection of the High Level Committee.

3.Learned Government Advocate would submit that the Government, having entered into a contract with the Insurance Company and having paid huge amount to them, cannot be compelled to reimburse the amount for the second time. He would further submit that there are number of network hospitals in the State and it is impermissible for the Government employees to choose their own hospital for treatment and thereafter claiming reimbursement. if this practice is allowed, then the very purpose of entering into the contract with the Insurance Company will be defeated.

8.This Court in the case of N.Raja Vs. The Government of Tamil Nadu, Rep.by its Secretary, Chennai and others, reported in 2016(3) CTC 394, has clearly held that when the Insurance company is not liable on account of the violation of the terms and conditions of the contract, it is the duty of the Government to reimburse the medical expenses incurred. The Hon'ble Division Bench of this Court also, by order dated 16.12.2016 in W.A.(MD)No.1579 of 2016 (MD India Healthcare Services (TPA) Ltd., Rep.by the Branch Manager, Chennai Vs. K.Parameshwari and others) directed the Government to <http://www.judis.nic.in> reimburse the medical expenditure. In view of the above, this Court is of the view that pursuant to the existence of the contract, the Insurance Company cannot be directed to pay the amount and therefore, it is the Government, which is liable to reimburse the amount."

6.Accordingly, this Writ petition is allowed and the impugned order dated 06.04.2017 passed by the 2nd respondent is hereby set aside. The concerned respondent, is directed to

sanction the medical expenses incurred by the petitioner, as per the eligibility criteria, in terms of the Scheme and release the eligible amount, within a period of two months from the date of receipt of a copy of this order. No costs.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

To.

- 1.The Secretary,
Government of Tamil Nadu
Finance (Pension) Department,
Fort St. George, Chennai 600 009.
- 2.The Joint Director of Medical and Rural
Health Services Department
Coimbatore - 18.
- 3.The District Treasury Officer
District Treasury
Coimbatore.
- 4.The Managing Director,
United India Insurance Company Ltd.,
Chennai.

+1cc to Mr.V.Thirupathi, Advocate Sr.100052
+1cc to the Government Pleader Sr.100389, 100443

W.P.No.33514 of 2019

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srg 10/01/2020

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