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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.03.2019

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THE HONOURABLE MR. JUSTICE R. MAHADEVAN

WP (MD) No.21501 of 2018

and

WMP (MD) No.19384 of 2018

M.Devakumar

... Petitioner

vs.

1.The Secretary to Government,
Secretariat, Fort St.George,
Chennai.

2.The Director of Treasuries and Accounts,
Panagal Buildings,
Saidapet,
Chennai - 600 015.

3.The United India Insurance & Co Ltd.,
Represented by its Divisional Manager,
Divisional Office VI,
5th Floor,
PLA Rathana Towers,
No.212, Anna Salai,
Chennai - 600 006.

4.The District Level Committee,
Represented by Collector,
Nagercoil, Kanyakumari District.

5.The Chief Educational Officer,
Nagercoil, Kanyakumari District.

6.The District Educational Officer,
Kuzhithurai, Kanyakumari District.

7.The District Educational Officer,
Thiruvattar,
Kanyakumari District.

... 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 on the file of 5th respondent proceedings to its order bearing Aa.thi.mu.No.3455/A4/2018 dated 07-05-2018 and to quash the same and consequently direct the respondents to disburse RS.4,58,587/- spent by the petitioner for the treatment underwent by him within a stipulated time fixed by this Court.



For Petitioner : Mr.C.Herold Singh
For Respondent : Mrs.S.Srimathy,
Nos.1,2,4 5, 6 and 7 Special Government Pleader
For Respondent : Mr.A.Shajahan
No.3

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ORDER

This writ petition has been filed to quash the impugned orders dated 07.05.2018 passed by the 5th respondent and to direct the respondents to disburse Rs.4,58,587/- spent by the petitioner for the treatment underwent by him within a stipulated time fixed by this Court.

2.The case of the petitioner, in brief, is as follows:

(i)The petitioner is working as a Teacher in St.Thomas High School, Netta, Kanyakumari District, and he is also a subscriber to the Tamil Nadu New Health Insurance Scheme and he pays the subscription of Rs.180/- for every month.

(ii)The petitioner was admitted in KIMS Hospital, Thiruvananthapuram and underwent surgery for Cancer and he incurred expenditure to the tune of Rs.4,58,587/- towards the same.

(iii).The grievance of the petitioner is that the proposal sent by him for medical reimbursement was rejected by the 5th respondent by order dated 07.05.2018 stating that the claim was made belatedly. Challenging the same, this writ petition has been filed.

3.The learned counsel appearing for the petitioner submitted that in similar circumstances, this Court passed orders in W.P(MD) No.9761 of 2013 (S.Vijaya Vs. The Additional Director, Tamil Nadu Health Scheme, Directorate of Medical and Rural Health Service Campus, New Building 2nd floor, Teynampet, Chennai and 2 others) on 09.12.2016, directing the respondents therein to consider the claim of the petitioner afresh. It would be useful to refer the operative portion of the order, which reads as follows:

"9.This Court has considered the rival submissions made by the parties and the earlier decisions of this Court reported in 2010(2)L.W.90 in the matter of Star Health and Allied Insurance Company Limited V. A.Chokkar and others and also yet another judgment of this Court in W.A(MD)No.859 of 2013 in the matter of State of Tamil Nadu V. Mary Thilagavathi and another.

10.As has been discussed above, the reasons cited by the 1st respondent in the impugned order are either non-est, or cannot be considered as valid reasons for the rejection of the claim of the petitioner for medical reimbursement, hence, this Court is of the considered view



that the impugned order is unsustainable and is liable to be quashed. Accordingly, the impugned order is quashed and the matter is remitted back to the first respondent for reconsideration and while doing reconsideration, the first respondent without giving the same reasons, has to explore the possibility of granting the reimbursement to the petitioner either under the scheme or on the basis of the agreement entered into between the Government and the third respondent, as admittedly, the petitioner has undertaken the treatment of a major surgery, for which, the medical reimbursement cannot be refused or rejected by the respondents."

Hence, the learned Counsel prayed for a similar order in this writ petition as well, for which, the learned Counsel appearing for the respective respondents have no serious objection.

4. Following the same, the impugned order passed by the 5th respondent dated 07.05.2018 is hereby quashed and the matter is remitted back to the 5th respondent for reconsideration on sympathetic ground. While doing reconsideration, the 5th respondent, without giving the same reasons, has to explore the possibility of granting the reimbursement to the petitioner either under the scheme or on the basis of the agreement entered into between the Government and the 3rd respondent, as admittedly, the petitioner has undertaken the treatment of a major surgery, for which, the medical reimbursement cannot be refused or rejected by the respondents. The needful shall be done by the 5th respondent within a period of twelve weeks from the date of receipt of a copy of this order.

5. The writ petition is disposed of with the above observation. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

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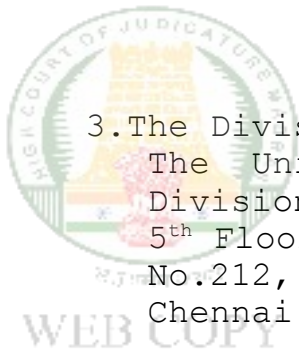
Sub Assistant Registrar (CS)

dsk

To

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2. The Director of Treasuries and Accounts,
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+1CC to M/s.S.C.HEROLD SINGH,Advocate(SR-55137[F] dated 19/03/2019)

+1 CC to M/s.SPL GP(SR-55280[F] dated 20/03/2019)

+1 CC to M/s.A.SHAJAHAN, Advocate(SR-55220[F] dated 20/03/2019)

W.P(MD) No.21501 of 2018
19.03.2019

ES/DS/02.05.2019/4P/11C