

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED: 08.03.2019

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THE HONOURABLE MR.JUSTICE R.MAHADEVAN

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**W.P(MD)No.4854 of 2019
and W.M.P(MD)No.3867 of 2019**

S.Soosai Adaikalam

... Petitioner

Vs.

1. The Director of Pension,
DMS Complex, Thenampet,
Chennai.
2. The District Collector,
Sivagangai District.
3. The Joint Director of Medical and Rural
Health Services Department,
Madurai, Office at Usilampatti,
Madurai District.
4. The District Treasury Officer,
The District Treasury Office, Sivagangai.
5. The Sub-Treasury Officer,
Sub-Treasury Office,
Karaikudi, Sivagangai District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Certiorarified Mandamus, to call for the records from the hands of the fourth respondent in O.M.No.10492/2017/G3/ dated 07.01.2019 and quash the same as illegal consequently direct the respondents to reimburse the medical claim of Rs.2,55,205/- of the petitioner incurred on her husband's treatment and surgery for fasciotomy of right leg cellulitis in Hannah Joseph Hospital, Lake view Road, K.K.Nagar, Madurai with interest at 24% per annum.

For Petitioner : Mr.S.M.Sanjay

For RR 1 to 4 : Mrs.J.Padmavathy Devi,
Special Government Pleader.**ORDER**

This Writ Petition has been filed to quash the impugned letter, dated 07.01.2019 passed by the fourth respondent and consequently, to direct the respondents to disburse medical reimbursement amount of Rs.2,55,205/- to the petitioner's husband.

<https://hcservices.ecourts.gov.in/hcservices/>

2.Heard the learned counsel appearing for the petitioner and



the learned Special Government Pleader for the respondents 1 to 4.

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

(i) The petitioner, who was working as a Teacher in the Educational Department, retired from service. The Government issued orders in G.O.171, Finance (Pension) Department dated 26.06.2014 implementing New Health Insurance Scheme of 2014 for pensioners with effect from 01.07.2014. As per the said Government Order, some amount is recovered from the pension of the petitioner.

(ii) The petitioner's husband was admitted in Hana Joseph Hospital, K.K.Nagar, Madurai on 18.09.2017 for his ailment of lower limb 'fasciotomy of right leg cellulitities' and surgery was done and thereafter, he had been discharged from hospital on 02.10.2017 and incurred expenditure to the tune of Rs.2,55,205/-.

4.The grievance of the petitioner is that the proposal sent by her for medical reimbursement for her husband was rejected by the fourth respondent on the ground that the treatment was taken in the non network hospital. Challenging the same, this writ petition has been filed.

5.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 extract 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 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."

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6. Following the same, the impugned order passed by the fourth respondent, dated 07.01.2019 is quashed and the matter is remitted back to the second respondent for consideration afresh and while doing so, the second respondent has to explore the possibility of granting the reimbursement to the petitioner under the scheme, as admittedly, the petitioner has undertaken the treatment of a major surgery for her husband, for which, the medical reimbursement cannot be refused or rejected by the respondents. The needful shall be done by the second respondent within a period of twelve weeks from the date of receipt of a copy of this order.

7. The writ petition is disposed of with the above observation. No costs. Consequently, connected Miscellaneous Petition is closed.

sd/
Assistant Registrar (Crl. Side)

/True Copy/

Sub Assistant Registrar

To

1. The Director of Pension,
DMS Complex, Thenampet, Chennai.
2. The District Collector,
Sivagangai District.
3. The Joint Director of Medical and Rural
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4. The District Treasury Officer,
The District Treasury Office, Sivagangai.
5. The Sub-Treasury Officer,
Sub-Treasury Office,
Karaikudi, Sivagangai District.

+1 CC to Mr.S.M.SANJAY, Advocate (SR-53138[F] dated 12/03/2019)

ps

KK-AE/02.04.2019/3P/7C