



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.03.2019

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THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P(MD) No.6019 of 2019

R.Duraiswamy Nadar

... Petitioner

vs.

1. State of Tamil Nadu,
rep.by its Principal Secretary,
Department of Health and Family Welfare,
Fort St. George,
Chennai - 600 009.
2. The Director of Medical & Health Services,
O/o.Director of Medical & Health Services,
DMS Complex, Anna Salai,
Chennai.
3. The Joint Director of Medical & Health Services,
O/o.Joint Director of Medical & Health Services,
District Head Quarters Hospital,
Tirunelveli - 627 811 at Tenkasi.
4. The District Collector,
Kanyakumari District,
Nagercoil.
5. The Treasury Officer,
Treasury and Accounts Department,
District Treasury Office,
Nagercoil.

... 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 pertaining to the Impugned Order in Na.Ka.No.21977/2015/ L2(27) dated 29.01.2018 signed on 29.01.2019 on the file of the Respondent No.5 and quash the same as illegal and consequently for a direction directing the Respondents to reimburse the medical expenses to the tune of Rs.2,06,590/- (Two lakhs six thousand five hundred and ninety only) along with interest at the rate of 9% in the light of the Judgment of the Hon'ble Supreme Court in Shiva Kant Jha Vs. Union of India reported in 2018 SCC Online SC 370/AIR 2018 SC 1975.



For Petitioner : Mr.T.Lajapathi Roy
For Respondents : Mr.V.Anand
Government Advocate

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ORDER

This Writ Petition has been filed to quash the impugned order of the fifth respondent dated 29.01.2018 and consequently direct the respondents to reimburse the medical expenses to the tune of Rs.2,06,590/- along with interest at the rate of 9%

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

3.The case of the petitioner is that he worked as a Secondary Grade Teacher and retired from service on 31.10.1993. During his service he was paying premium towards medical reimbursement under the New Health Insurance Scheme, 2018. While so, due to chest pain, he was admitted at Vasantham Health Centre (P) Ltd., at Nagercoil and met with the medical expenses to the tune of Rs.2,06,590/-. Seeking medical reimbursement, the petitioner made an application before the fifth respondent, enclosing all the relevant documents. But the same has been rejected vide the impugned order 29.01.2018 stating that the treatment was taken in a 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 therein afresh. Hence, the learned counsel prayed for a similar order in this writ petition as well, for which, the learned Government Advocate appearing for the respondents has no serious objection.

6.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 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."

7. Following the same, the impugned order passed by the fifth respondent, dated 29.01.2018 is quashed and the matter is remitted back to the fifth respondent for consideration afresh. While doing so, the fifth respondent, without giving the same reasons, has to explore the possibility of granting the reimbursement to the petitioner under the scheme. The needful shall be done by the fifth respondent within a period of twelve weeks from the date of receipt of a copy of this order.

8. The writ petition is disposed of with the above direction. No costs.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

Sub Assistant Registrar (CS)

To

1. The Principal Secretary,
State of Tamil Nadu,
Department of Health and Family Welfare,
Fort St. George,
Chennai - 600 009.
2. The Director of Medical & Health Services,
O/o. Director of Medical & Health Services,
DMS Complex, Anna Salai,
Chennai



3. The Joint Director of Medical & Health Services,
O/o.Joint Director of Medical & Health Services,
District Head Quarters Hospital,
Tirunelveli - 627 811 at Tenkasi.

4. The District Collector,
Kanyakumari District,
Nagercoil.

5. The Treasury Officer,
Treasury and Accounts Department,
District Treasury Office,
Nagercoil.

+1 CC to Mr.T.LAJAPATHI ROY, Advocate (SR-56500[F] dated 26/03/2019)

W.P(MD) No.6019 of 2019
22.03.2019

mj

AE (27.04.2019) 4P 7C