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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 27.03.2019

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

WP (MD) No.7230 of 2019

and

WMP (MD) No.5793 of 2019

Mohamed Samsoo

... Petitioner

vs.

1.The Director of Pension,
DMS Compound,
Teynampet,
Chenani - 6.

2.The Director,
Directorate of Medical and Rural Health Services,
Chennai -06.

3.The District Collector of Kanyakumari,
Office of the District Collector,
Kanyakumari.

4.The Treasury Officer,
Kanyakumari District Treasury,
Nagercoil.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records in pursuant to the 2nd respondent impugned letter in: O.Mu.No. 7545/KaPil/3/2018, dated 03.01.2019 and quash the same as illegal consequently direct the respondents to sanction and pay the medical reimbursement claim amount of Rs.2,83,176/- with interest at the rate of 6% per annum to the petitioner. Within a period stipulated by this Court.

For Petitioner : Mr.S.A.S.Alaudeen

For Respondents : Mr.C.M.Mari Chellaiah Prabhu,
Additional Government Pleader

ORDER

This writ petition has been filed to quash the impugned order dated 03.01.2019 passed by the 2nd respondent and to direct the respondents to disburse Rs.2,83,176/- spent by the petitioner for the treatment underwent by him.

2.Heard the learned Counsel for the petitioner and the learned Additional Government Pleader appearing for the respondents. By Consent, the writ petition is taken up for final disposal at the stage of admission itself.



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

(i) The petitioner is a pensioner and he is also a subscriber to the Tamil Nadu New Health Insurance Scheme and he pays the subscription every month.

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(ii) The petitioner was admitted in PRS Hospital, Thiruvananthapuram and underwent surgery for removal of block in the heart and he incurred expenditure to the tune of Rs.2,83,176/- towards the same.

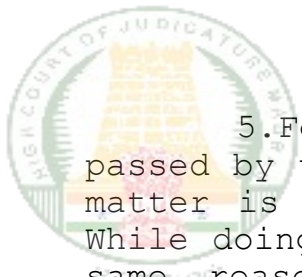
(iii). The grievance of the petitioner is that the proposal sent by him for medical reimbursement was rejected by the 2nd respondent by order dated 03.01.2019, stating that the treatment was taken by him in a non network hospital. Challenging the same, this writ petition has been filed.

4. 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. 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."

Thus, the learned Counsel sought a similar order in this writ petition also, for which, the learned Additional Government Pleader appearing for the respondents has no serious objection.



5. Following the above said decision, the impugned order passed by the 2nd respondent on 03.01.2019 is hereby quashed and the matter is remitted back to the 2nd respondent for reconsideration. While doing reconsideration, the 2nd 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 Insurance Company, 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 second respondent within a period of twelve weeks from the date of receipt of a copy of this order.

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

Sd/-

Assistant Registrar(AS)

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Sub Assistant Registrar(CS)

To

1. The Director of Pension,
DMS Compound,
Teynampet,
Chennai - 6.

2. The Director,
Directorate of Medical and Rural Health Services,
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3. The District Collector of Kanyakumari,
Office of the District Collector,
Kanyakumari.

4. The Treasury Officer,
Kanyakumari District Treasury,
Nagercoil.

+1 CC to M/s.S.A.S.ALAUDEEN, Advocate (SR-57164[F] dated 27/03/2019)

+1 CC to M/s.SPL GP (SR-57343[F] dated 28/03/2019)

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27.03.2019

CS (KM) : 08/05/20193P/7C