



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.04.2019

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THE HONOURABLE MR.JUSTICE R.MAHADEVAN

WP (MD) No.9151 of 2019
and

WMP (MD) No.7127 of 2019

R.Premavathi

... Petitioner

vs.

1.The Secretary to Government,
Finance (Pension) Department,
Secretariat,
Chennai - 600 009.

2.The Divisional Manager,
United India Insurance & Co Ltd,
PLA Rathina Towers, 5th Floor,
212, Anna Salai,
Chennai - 600 006.

3.The Director of Medical and Rural Health Services,
DMS Complex,
Teynampet,
Chennai - 600 006.

4.The Treasury Officer,
District Treasury,
Madurai - 625 020.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling records of the third and fourth respondents ie., the Director of Medical and Rural Health Services, Chennai in his Oo.Moo.No.65194 / Kapi 1 / 3 / 2018 dated 28.03.2019 and the Treasury Officer, District Treasury, Madurai in his letter Na.Ka.No.12008 / 2 / 2017 M1, dated 31.10.2018 and quash the same and consequently direct the first respondent ie., the Secretary to Government, Finance (Pension) Department, Chennai to sanction eligible amount to the petitioner since the claim of the petitioner cannot be rejected on the only ground that the treatment was taken in an unapproved hospital not listed by the Government, within a specified time frame that may be fixed by this Court.



For Petitioner : Mr.S.Visvalingam

For Respondent : Mrs.J.Padmavathy Devi,
Nos. 1, 2 and 3 Special Government Pleader

For Respondent : Mr.A.Shajahan
No.4

O R D E R

This writ petition has been filed to quash the order dated 28.03.2019 passed by the 2nd respondent and the order dated 31.10.2018 passed by the 4th respondent and to direct the 1st respondent to sanction the eligible amount to the petitioner.

2.Heard the learned Counsel on either side. 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 she pays the subscription every month.

(ii)The petitioner was admitted in Gleneagles Global Health City Hospital at Chennai and was given treatment for Severe Acute Pancreatitis Acute and Kidney Injury and he incurred expenditure to the tune of Rs.5,33,137/- towards the same.

(iii)The grievance of the petitioner is that the proposal sent by her for medical reimbursement was rejected by the 2nd and 4th respondents, stating that the treatment was taken by her in a non network hospital. Challenging the rejection, 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 Counsel appearing for the respective respondents have no serious objection.

5.Following the above said decision, the impugned order dated 28.03.2019 passed by the 2nd respondent and the order dated 31.10.2018 passed by the 4th respondent are 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 2nd 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(Crl.Side)

/TRUE COPY/

Sub Assistant Registrar(CS)

To

1.The Secretary to Government,
Finance (Pension) Department,
Secretariat,

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

Chennai - 600 009.



2.The Divisional Manager,
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+1 CC to M/s.S.VISVALINGAM, Advocate (SR-62560[F] dated
25/04/2019)

+1 CC to M/s.A.SHAJAHAN, Advocate (SR-62785[F] dated 26/04/2019)

+1 CC to M/s.SPL GP (SR-63341[F] dated 27/04/2019)

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CS: 15/05/2019/4P/8C