



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.06.2019

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE D. KRISHNAKUMAR

W.P(MD).No. 9249 of 2019 and
W.M.P(MD).No. 7271 of 2019

V.R. Poobalan

... Petitioner

Vs.

1. The Government of Tamilnadu,
represented by its Secretary to the Government,
Finance (Pension) Department,
Secretariat, Fort Saint George,
Chennai - 09.
2. The District Collector,
Madurai District,
Madurai.
3. The Joint Director of Medical and Rural Health,
Office of the Joint Director of Medical and Rural Health,
Usilampatti, Madurai.
4. The Divisional Manager,
United India Insurance Company Limited,
PLA Rathinam Towers,
5th Floor, Annasalai, Chennai 600 009.
5. The District Treasury Officer,
Office of the District Treasury,
Madurai District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned order issued by the fifth respondent in his proceedings in Na.Ka.No.12830/2018/M1 dated 24.12.2018 and quash the same and consequently direct the respondents to reimburse the medical claim submitted by the petitioner together with interest at 18% for the delayed payment.

For Petitioner

: Mr.Gangai Amaran

For Respondents-1 to 3 & 5 : Mr.M. Pandiyarajan,

Additional Government Pleader

For Respondent-4

: No appearance

**ORDER**

The instant Writ petition is filed to call for the records pertaining to the impugned order issued by the fifth respondent in his proceedings in Na.Ka.No.12830/2018/M1, dated 24.12.2018 and quash the same and consequently to direct the respondents to reimburse the medical claim submitted by the petitioner together with interest at 18% for the delayed payment.

2. According to the petitioner, the impugned order passed by the fifth respondent, dated 24.12.2018 in Na.Ka.No.12830/2018/M1, by rejecting the claim of the petitioner's reimbursement of the medical claim. Upon the decision of the Division Bench of this Court, dated 04.12.2018 passed in W.A.(MD) No. 1617 of 2018 and C.M.P.(MD) No.11736 of 2018, wherein, this Court has considered the decision of this Court and the Paragraph Nos.8 , 9 & 10 of the aforesaid Order are extracted hereunder:

"8. In this context, it would also be useful to refer to Clause 14(4) of the Guidelines for implementation of New Health Insurance Scheme, 2018, for Pensioners (including Spouse)/Family Pensioners in the Appendix to G.O.Ms. No.222, Finance (Pension) Department, dated 30.06.2018 issued by the Government of Tamil Nadu, which is extracted below :-

14. (4). In case, a Pensioner/Family Pensioner undergoes emergency treatments/surgeries not converted under this Scheme in either Network Hospital or Non-Network Hospital, no claim can be filled under the Health Insurance Scheme. However, they shall be eligible for claim to the extent permissible under the Tamil Nadu Medical Attendance Rules and the G.O.Ms. No.1023, Health and Family Welfare Department, dated 17.06.1980. It may be noted that the Tamil Nadu Medical Attendance Rules requires that treatment in private hospitals should not be resorted to except in case of emergencies. Clause 2(3) of the aforesaid Government Order states that in genuine cases of emergency, the claims will be restricted to the expenditure that would have been incurred had the patient taken treatment in a Government Hospital excepting diet charges. For claims under Tamil Nadu Medical Attendance Rules, the Beneficiaries may apply to the authority in the department in which the Government employee last served who is competent to process and forward pension proposal to the Accountant General, Tamil Nadu. The Head of Office shall process the claims and pay the eligible claims under the Tamil Nadu Medical Attendance Rules.



Though that Government Order has been issued after the claim has been made in this case, the aforesaid guidelines, which are based upon the instructions provided in the earlier Government orders and the Tamil Nadu Medical Attendance Rules, are obviously classificatory in nature and would apply to past cases as well.

9. In the light of this incontrovertible legal position coupled with the facts of this case, we confirm the findings of the Writ Court. However, we are of the considered view that it would suffice to award interest at the rate of 7.5% per annum instead of 9% per annum that had been granted for the delay in medical reimbursement to the petitioner.

10. In the result, the Writ Appeal is allowed in part and the order dated 27.02.2017 in W.P.(MD) No.23912 of 2016 is modified to the effect that the competent authority of the Government of Tamil Nadu shall examine the claim made by the petitioner for medical reimbursement under the Tamil Nadu Medical Attendance Rules and sanction and disburse the eligible amount towards the same along with interest thereon at the rate of 7.5 % per annum and file a report of such compliance before Registrar (Judicial) of this Court by 31.01.2019. No Costs. Consequently, the connected Miscellaneous Petition is closed".

3. The learned Additional Government Pleader appearing for the respondents-1 to 3 & 5 would submit that the petitioner has filed an appeal before the State Level Committee and the petitioner has also placed the Judgment before the State Level Committee.

4. The learned counsel appearing for the petitioner relied upon the aforesaid Judgment of this Court, squarely applicable to the facts of the case. Though counter has been filed by the respondents and the same contentions raised in the earlier writ petition and some new contentions have been raised, but, nowhere the respondents have stated that the aforesaid Judgment is not applicable to the facts of the case. When a decision has taken by this Court, without considering the said Judgment and passing the rejection order is totally unjustified.

5. By considering the facts of the case, this Court has no hesitation to quash the impugned proceedings and directs the 1st respondent/the competent authority of the Government of Tamilnadu to reimburse the medical claim submitted by the petitioner along with interest at 7.5% per annum.

6. The Writ petition stands allowed with the above terms.



No Costs.
closed.

Consequently, connected Miscellaneous Petition is

Sd/-

Assistant Registrar (Records)

// True Copy //

Sub Assistant Registrar(CS)

To

1. The Government of Tamilnadu,
represented by its Secretary to the Government,
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Madurai District.

+1 CC to M/s.C.GANGAI AMARAN, Advocate (SR-71686[F] dated 27/06/2019)

+1 CC to Special Government Pleader (SR-72152[F] dated 28/06/2019)

W.P[MD)]No. 9249 of 2019
25.06.2019

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