



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.04.2019

CORAM:

THE HONOURABLE MR.JUSTICE. R.MAHADEVAN

W.P. (MD) No.9521 of 2019

and

WMP (MD) No.7500 of 2019

K.Unnikrishnan Nayar

.. Petitioner

Vs.

1.The Government of Tamil Nadu,
rep. by its Secretary,
Fort St. George,
Chennai - 600 009.

2.The Director,
Medical and Rural Health Services Dept.,
Thenampettai,
Chennai.

3.The District Collector,
Kanyakumari District
at Nagercoil.

4.The Joint Director,
Medical and Rural Health Services Dept.,
Kanyakumari District.

5.The Treasury Officer,
District Treasury,
Kanyakumari District
at Nagercoil.

6.MD Indian Health Care Services (TPA) Private Ltd.,
(Unit of United India Insurance Company Ltd.,)
rep. through its Assistant Manager
No.27, Lakshmi Towers, 3rd floor,
Dr.Radhakrishnan Salai, Mylapore,
Chennai - 600 004.

.. Respondents

PRAYER : Writ Petition is filed under Article 226 of Constitution of India, to issue a writ of Certiorarified mandamus calling for the records relating to the impugned order in Na.Ka.No.21977 / 2015 / L2(19) dated 26/04/2018 passed by the 5th respondent and the consequential impugned order in O.Mu.No.7545 / Kabi 1 / 3 / 2018 dated 03/01/2019 passed by the 2nd respondent and quash the same and consequently direct the respondents to reimburse a sum of Rs.1,85,170/- along with the interest of 7.5% per annum to the petitioner towards the medical expenses incurred by the petitioner towards his treatment.



For Petitioner : M/s.R.Jenifar Bibin
For Respondents : Mr.C.M.Mari Chellaiah Prabhu
Additional Government Pleader

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ORDER

This Writ Petition has been filed to quash the impugned order of the fifth respondent dated 26.04.2018 and the consequential order of the second respondent dated 03.01.2019 and consequently direct the respondents to reimburse the medical expenses to the tune of Rs.1,85,170/- along with interest at the rate of 7.5%.

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

3.The case of the petitioner is that he is a retired teacher and he is paying subscription under the New Health Insurance Scheme, floated by the Government. While so, he underwent an orthopedic surgery, for which, he incurred medical expenses to the tune of Rs.1,85,170/-. Seeking medical reimbursement, the petitioner made an application before the fifth respondent, but the same was rejected vide the impugned order of the fifth respondent dated 26.04.2018. Aggrieved over the same, the petitioner filed an appeal before the second respondent. The second respondent also rejected the claim of the petitioner vide the order dated 03.01.2019, stating that the treatment was taken 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. Hence, the learned counsel prayed for a similar order in this writ petition as well, for which, the learned Additional Government Pleader appearing for the respondents has no serious objection.

5.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.P(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."

6. Following the same, the impugned order passed by the fifth respondent, dated 26.04.2018 and the consequential order dated 03.01.2019 passed by the second respondent are quashed and the matter is remitted back to the second respondent for consideration afresh. While doing so, the second 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 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 direction. No costs. Consequently, WMP(MD)No.7500 of 2019 is closed.

Sd/-

Assistant Registrar

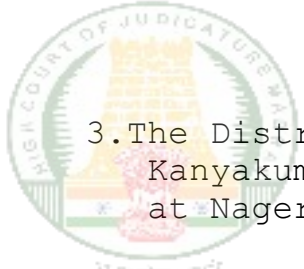
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Sub Assistant Registrar(CS)

To

1. The Secretary,
Government of Tamil Nadu,
Fort St. George,
Chennai - 600 009.

2. The Director,
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Chennai.



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5.The Treasury Officer,
District Treasury,
Kanyakumari District
at Nagercoil.

+1cc to M/s.Special Government Pleader,SR.No. 62138

W.P.[MD].No.9521 of 2019

mj
KK/SAR/21.05.2019/ 4p- 7C