



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.04.2019

CORAM

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THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P(MD) No.9739 of 2019
and
WMP(MD)No.7643 of 2019

C.Gnanasekhar

... Petitioner

vs.

1.The Government of Tamil Nadu,
rep. by its Secretary, Finance (Salary) Dept.,
Fort St. George,
Chennai - 600 009.

2.United India Insurance Company Ltd.,
rep.by its Divisional Manager,
Divisional Office VI, V floor,
P.L.A.Rathna Towers,
212, Anna Salai,
Chennai - 600 006.

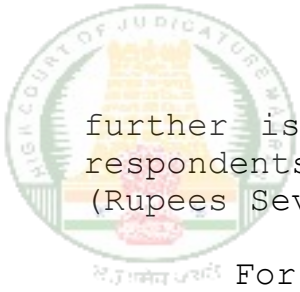
3.The Joint Director,
Joint Director of Medical and Rural Health
Services at Nagercoil,
Kanyakumari District.

4.The District Collector,
Kanyakumari District,
District Level Empowered Committee,
Nagercoil - 629 001,
Kanyakumari District.

5.The District Treasury Officer,
District Treasury Office,
Nagercoil - 629 001,
Kanyakumari District.

... 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 of the impugned proceedings 3rd respondent which is signed by respondents 2 to 5 dated 16.08.2017 bearing Ref.No.100/E4/R/07/2017, office of the Joint Director Medical and Rural Health Service Kanyakumari @ Nagercoil and quash the same and



further issue necessary direction to the 1st respondent or other respondents to give the Medical reimbursement a sum of Rs.73,924/- (Rupees Seventy Three Thousand Nine Hundred and Twenty Four Only).

For Petitioner

: Mr.G.Balakrishnan

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For RR - 1, 3, 4 & 5

: Mr.CM.Mari Chellaiah Prabhu
Additional Government Pleader

For R2

: Mr.A.Shajahan

O R D E R

This writ petition has been filed to quash the impugned proceedings of the third respondent dated 16.08.2017, rejecting the claim of medical reimbursement and to direct the first respondent or other respondents to disburse medical reimbursement to the petitioner.

2.Heard the learned counsel for the petitioner; the learned Additional Government Pleader for the respondents 1, 3, 4 and 5 and the learned counsel for the second respondent. 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 working in the Tamil Nadu State Transport Corporation and he is paying monthly premium under the New Health Insurance Scheme, 2012. While so, due to heart disease, he underwent a surgery at KMCH, Coimbatore and thereby met with the medical expenses to the tune of Rs.73,924/-. Seeking reimbursement of the said amount, the petitioner made an application before the second respondent. Since the same has not been considered, he made an application before the third respondent. The third respondent rejected the claim of the petitioner, vide the impugned order dated 16.08.2017 stating that treatment was taken by the petitioner 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 as well as the learned counsel appearing for the second respondent have 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.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."

6.Following the same, the impugned order passed by the third respondent dated 16.08.2017 is quashed and the matter is remitted back to the first respondent for consideration afresh. While doing so, the first respondent, without giving the same reasons, has to explore the possibility of granting the reimbursement to the petitioner under the scheme or on the basis of the agreement entered into between the Government and the second 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. The needful shall be done by the first 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.7643 of 2019 is closed.

Sd/-

Assistant Registrar(Crl.Side)

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Sub Assistant Registrar(CS)



To

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+1 CC to M/s.J.BALAMEENAKSHI, Advocate (SR-62248[F] dated
24/04/2019)

+1 CC to M/s.A.SHAJAHAN, Advocate (SR-62380[F] dated 25/04/2019)

+1 CC to M/s.SPL GP (SR-62471[F] dated 25/04/2019)

W.P (MD) No.9739 of 2019
24.04.2019

CS: 17/05/2019/4P/9C