



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.04.2019

CORAM:

THE HONOURABLE MR.JUSTICE. R.MAHADEVAN

W.P. (MD) No.9741 of 2019

D.Vasumathi Amma

.. Petitioner

Vs.

- 1.The State of Tamil Nadu,
rep.by its Secretary to Government,
Department of Finance (Pension),
Secretariat, Fort St. George,
Chennai - 600 009.
- 2.The Commissioner of Treasuries and Accounts,
Second Floor,
Panagal Building,
Jeenish Road,
Saidapet,
Chennai - 600 015.
- 3.The Divisional Manager,
United India Insurance Co. Ltd.,
PLA Rathina Tower,
5th floor,
212, Anna Salai,
Chennai - 600 006.
- 4.The Treasury Office (P.O.),
District Treasury,
Nagercoil,
Kanyakumari District.
- 5.The District Collector/Chairman,
District Level Committee,
Kanyakumari District.

.. Respondents

PRAYER : Writ Petition is filed under Article 226 of Constitution of India, to issue a writ of Certiorarified Mandamus calling for the records of the 3rd and 4th respondents in Na.Ka.No.21977/2015/L2 (27) dated 29.01.2019 and quash the same and consequently direct the 1st respondent i.e., the secretary to Govt. Finance (Pension) department, Chennai, to sanction the amount to the petitioner since the claim of the petitioner cannot be rejected on the only ground that the disease is not included in the approved list of the Government.



For Petitioner : Mr.V.M.Balamohan Thambi
For RR -1, 2, 4 & 5 : Mr.V.Anand
Government Advocate
For R3 : Mr.A.Shajahan

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ORDER

This Writ Petition has been filed to quash the impugned order of the third and fourth respondents dated 29.01.2019 and consequently direct the first respondent to sanction the amount incurred towards the medical expenses of the petitioner's husband.

2.Heard the learned counsel appearing for the petitioner; the learned Government Advocate for the respondents 1, 2, 4 and 5 and the learned counsel for the third 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 she is a retired Staff Nurse in the Tamil Nadu Medical Service. She is paying premium towards medical reimbursement under the New Health Insurance Scheme, 2014. While so, due to heart disease, her husband was admitted at Vasantham Health Centre (P) Ltd., Nagercoil and thereby, she met with the medical expenses to the tune of Rs.2,53,066/-. Seeking reimbursement of the said amount, the petitioner made an application before the fourth respondent, enclosing all the relevant documents. But the same has been rejected by the respondents 3 and 4 vide the impugned order dated 29.01.2019 stating that the disease is not included in the approved list of the Government. 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.2783 of 2019 on 08.02.2019, following the decision of this Court 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 Government Advocate appearing for the respondents 1, 2, 4 and 5 and the learned counsel for the third 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 respondents 3 and 4, dated 29.01.2019 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 third respondent, as admittedly, the petitioner's husband 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.

Sd/-

Assistant Registrar(Writs)

/TRUE COPY/

Sub Assistant Registrar(CS)

To

1.The Secretary to Government,
State of Tamil Nadu,
Department of Finance (Pension),
Secretariat, Fort St. George,
Chennai - 600 009.



2.The Commissioner of Treasuries and Accounts,
Second Floor,
Panagal Building,
Jeenish Road, Saidapet,
Chennai - 600 015.

WEB COPY

3.The Treasury Office (P.O.),
District Treasury,
Nagercoil, Kanyakumari District.

4.The District Collector/Chairman,
District Level Committee,
Kanyakumri District.

+1 CC to M/s.V.M.BALAMOHAN THAMBI, Advocate (SR-62185[F] dated 24/04/2019)

+1 CC to M/s.A.SHAJAHAN, Advocate (SR-62216[F] dated 24/04/2019)

+1 CC to M/s.SPL GP (SR-62440[F] dated 25/04/2019)

W.P. [MD] .No.9741 of 2019
24.04.2019

CS: 16/05/2019/4P/8C