



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.04.2019

CORAM

THE HONOURABLE MR. JUSTICE R. MAHADEVAN

W.P (MD) No. 9905 of 2019

WEB COPY

A. Vijaya Shanthi

... Petitioner

Vs.

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

2. The District Collector,
Kanyakumari District,
Nagercoil.

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

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

5. The Deputy Manager,
United India Insurance Company Limited,
Divisional Office, Nagercoil,
Kanyakumari District.

6. The Divisional Manager,
United India Insurance Company Limited,
Divisional Office VI, PLA Rathna Towers,
5th Floor, 212-Anna Salai,
Chennai - 600 006.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Certiorarified Mandamus, to call for the records relating to the impugned proceedings issued by the 4th respondent herein in Na.Ka.No.21977/2015/L2(28), dated 26.02.2019, quash the same and further direct the respondents herein to disburse forthwith a sum of Rs.1,91,768/- (Rupees One Lakh Ninety One Thousand Seven Hundred and Sixty Eight only) to the petitioner along with appropriate interest towards the medical expenses incurred towards treatment of petitioner's husband for Laryngeal Carcinoma in Dr. Kamakshi Memorial Hospital Pvt. Ltd., Chennai.



For Petitioner : Mr. E.V.N. Siva
For RR 1 to 5 : Mr. V. Anand
Government Advocate
For R6 : Mr. A. Shajahan

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ORDER

This Writ Petition has been filed to quash the impugned proceedings, dated 26.02.2019 passed by the fourth respondent and consequently, to direct the respondents to disburse medical reimbursement amount of Rs.1,91,768/- to the petitioner's husband.

2. Heard the learned counsel appearing for the petitioner; the learned Special Government Pleader for the respondents 1 to 5 and the learned counsel appearing for the 6th respondent.

3. The case of the petitioner, in brief, is as follows:

(i) The petitioner's husband, who was retired from Government service, was receiving pension under PPO.No.R.0717558/AGR. The Government issued orders in G.O.171, Finance (Pension) Department dated 26.06.2014 implementing New Health Insurance Scheme of 2014 for pensioners with effect from 01.07.2014.

(ii) The petitioner's husband was admitted in Dr. Kamakshi Memorial Hospital Pvt. Ltd., Chennai on 12.02.2018 for his ailment of Tracheostomy, Dilatation with UGI Scopy treatment for Laryngeal Carcinoma and thereafter, he had been discharged from hospital on 27.02.2018 and incurred expenditure to the tune of Rs.1,91,768/-. Subsequently, the petitioner's husband died on 10.06.2018.

(iii) The grievance of the petitioner is that the proposal sent by her for medical reimbursement for her husband was rejected by the sixth respondent on the ground that the treatment was taken in the 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 afresh. 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."

5. Hence, the learned counsel sought for a similar order in this Writ Petition as well, for which the learned counsel appearing for the respective respondents have no serious objection.

6. Considering the facts and circumstances of the case and having regard to the submissions made by the learned counsel on either side and also following the aforesaid order, the impugned order passed by the fourth respondent, dated 26.02.2019 is quashed and the matter is remitted back to the second respondent for consideration afresh and while doing so, the second respondent has to explore the possibility of granting the reimbursement to the petitioner under the scheme, as admittedly, the petitioner has undertaken the treatment of a major surgery for her husband, for which, the medical reimbursement cannot be refused or rejected by the respondents. The needful shall be done by the fourth 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 observation. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(Writs)

/TRUE COPY/

Sub Assistant Registrar(CS)



To

1.The Principal Secretary to Government,
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+1 CC to M/s.A.SHAJAHAN, Advocate (SR-62215[F] dated 24/04/2019)

+1 CC to M/s.E.V.N.SIVA, Advocate (SR-62260[F] dated 24/04/2019)

+1 CC to SPL GP (SR-62437[F] dated 25/04/2019)

W.P (MD) No. 9905 of 2019
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CS: 28/05/2019/4P/10C