



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.04.2019

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN**W.P(MD) No.2259 of 2015**

T.M.Rajaram

... Petitioner

vs.

1.The Director of Pension,
259, 3rd Block, 2nd Floor,
DMS Compound, Teynampet,
Chennai-600 006.

2.The Treasury Officer,
District Treasury Office,
Madurai-625 020.

... 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 pertaining to the impugned order of the first respondent in his letter Lr.No.Rc.40493/2014/E4, dated 23.09.2014 and quash the same and further directing the respondents to disburse the balance medical claim of Rs.1,15,587.89/- to the petitioner, as per the Medical Bill Receipt, claimed under the Tamilnadu Government Pensioners Health Fund Scheme.

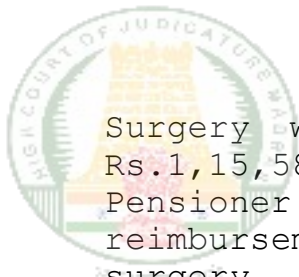
For Petitioner : Mr.G.Rajan

For Respondents : Mr.S.Angappan
Government Advocate**O R D E R**

This writ petition has been filed seeking to quash the impugned order of the first respondent, in his letter Lr.No.Rc.40493/2014/E4, dated 23.09.2014 and to direct the respondents to disburse the balance medical claim of Rs.1,15,587.89/- to the petitioner, as per the Medical Bill Receipt, claimed under the Tamilnadu Government Pensioners Health Fund Scheme.

2.Heard the learned counsel for the petitioner and the learned Government Advocate appearing for the respondents and perused the materials available on record.

3. The case of the petitioner is that he is the retired Government employee and he is also a subscriber to the Tamil Nadu Pensioner's Health Fund Scheme. While so, on 25.01.2012, he got severe chest pain and he admitted in the hospital and an open Heart



Surgery was done to him. Due to that, he spent a sum of Rs.1,15,587.89/- Since he is the subscriber of the Tamil Nadu Pensioner's Health Fund Scheme, he approached the authorities for reimbursement of the medical expenses incurred for the open heart surgery. However, the same has been rejected vide the impugned order, against which, the present Writ Petition is filed by the petitioner.

4. The learned Counsel appearing for the petitioner submitted that the issue is directly covered by a decision of this Court in **A.Balamurugan Vs. State of Tamil Nadu and Others** reported in **2012(5) CTC 308**, wherein this Court held as follows:

5.The respondents have agreed that the petitioner is covered by the health fund and his is eligible for reimbursement. The contention that the money will be paid after surgical procedure may sound attractive, but the practical difficulty is that the petitioner, who is drawing only Rs.5000/- in the adhoc employment cannot be asked to shell out the money in advance and later claim for reimbursement. Therefore, Mr.K.Balu, learned counsel for the petitioner contended that if the respondent TASMAG gives an undertaking to reimburse the amount, then he can undergo the surgical procedure. The other contention of the respondent TASMAG was that the petitioner should take treatment only from the Government hospital and not in the fifth respondent hospital. The said argument is only sated to be rejected. So long as the fifth respondent hospital also comes under the purview of reimbursement for having undergone the treatment, it is not for the respondent to suggest as to which hospital the petitioner should undergo treatment.

6.In this context, it is necessary to refer to a judgment of this court in K.Mani Vs. The Secretary to Government, Health and Family Welfare Department, Chennai and others reported in 2007 (3) MLJ 34 and after referring to the decisions of the Supreme Court, this Court had summarised the following propositions laid therein in matters relating to medical reimbursement scheme for government servants:-

(i)It is the obligation of the State to ensure the creation and the sustaining of conditions congenial to good health. (see: 1987 (2) SCC 165)

(ii)Article 21 of the Constitution of India casts the obligation on the State to preserve life. (See 1989 (4) SCC 286).

(iii)Right to live guaranteed in any civilised society implies the right to food, water, decent environment, education, medical care and shelter. (See 1996 (2) SCC 549).



(iv) The right to health to a worker is an integral facet of meaningful right to life. (See 1995 (3) SCC 42).

(v) Government has constitutional obligation to provide the health facilities. If the Government servant has suffered an ailment which requires treatment at a specialised approved hospital..... it is but the duty of the State to bear the expenditure.

(vi) No State of any country can have unlimited resources to spend on any of its project. (See 1998 (4) SCC 117).

8. Therefore, the following directions are issued :

(i) The third respondent is directed to furnish a letter of authorization and undertaking addressed to the fifth respondent hospital authorizing the petitioner to undergo renal transplantation and also to undertake the reimbursement of the entire expenses subject to legal scrutiny of the bills raised by the hospital. The authorization letter should be delivered to the fifth respondent after due notice to the petitioner.

(ii) The ceiling fixed by the third respondent, i.e., the petitioner can only get Rs.1 lakh is unrealistic. It goes without saying that renal transplantation surgery procedure costs much more. Therefore, the undertaking should not be subjected to any ceiling limit on the surgery to be undertaken by the petitioner.

(iii) This exercise shall be undertaken within a period of one week from the date of receipt of copy of this order."

5. The learned Government Advocate has not opposed the submission so made by the learned Counsel for the petitioner.

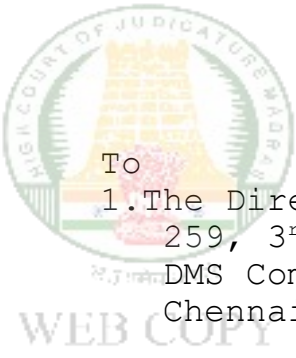
6. Considering the facts and circumstances of the case and having regard to the submissions made by the learned Counsel on either side and also following the earlier order of this Court, the impugned order dated 23.09.2014 is set aside and the matter is remitted back to the first respondent for passing appropriate orders, by considering the claim of the petitioner, in the light of the order passed by this Court (cited supra). Such an exercise shall be done within a period of eight weeks from the date of receipt of a copy of this order.

7. In the result, the Writ Petition stands allowed as indicated above. No costs.

Sd/-

Assistant Registrar (CS-III)

// True Copy //



To

1.The Director of Pension,
259, 3rd Block, 2nd Floor,
DMS Compound, Teynampet,
Chennai-600 006.

2.The Treasury Officer,
District Treasury Office,
Madurai-625 020.

+1CC TO MR.G.RAJAN, Advocate Sr. No.58474

+1CC TO THE SPECIAL GOVERNMENT PLEADER SR.No.58544

W.P(MD) No.2259 of 2015
02.04.2019

AVS (CO)

TR (30.04.2019) 4P 5C