



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.07.2019

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THE HONOURABLE MR.JUSTICE D. KRISHNAKUMAR

W.P.(MD).No.15866 of 2019 and
WMP(MD).Nos.12589 to 12591 of 2019

M.S.Pratheebha

.. Petitioner

Vs.

1.The State of Tamil Nadu,
rep. by its Principal Secretary,
Department of Finance,
Secretariat, Fort. St. George,
Chennai.

2.The State of Tamil Nadu,
rep. by its Principal Secretary,
Department of Health and Family Welfare,
Secretariat, Fort. St. George,
Chennai.

3.The Joint Director,
Medical and Rural Health Services,
Ayurveda Medical College Campus,
Nagercoil,
Kanyakumari District.

4.The Tamil Nadu National Health Insurance Scheme,
Employee Scheme - 2012,
The Chief Nodal Officer,
MD Health Insurance TPA Private Limited,
Guna Complex,
443, 445, Anna Salai,
Chennai - 600 018.

..Respondents

PRAYER: Writ petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned order in Ref.No.118/E4/R/02/2019 dated 15.05.2019, on the file of the third respondent and quash the same as illegal and consequently, directing the respondents 1 and 2 to provide the Medical reimbursement of Rs.2,65,700/- with the interest of 12% per annum to the petitioner from 24.09.2018 till the date of payment within the time stipulated by this Court.



For Petitioner
For Respondents

: Mr. T. Lajapathi Roy
: Mr. A. Muthukaruppan
Additional Government Pleader

O R D E R

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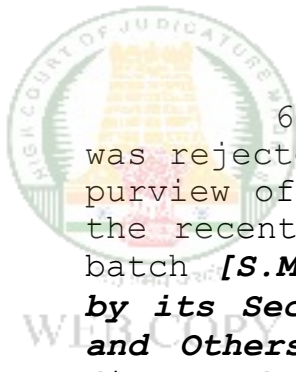
This Writ Petition has been filed to quash the impugned order passed in Ref.No.118/E4/R/02/2019, dated 15.05.2019, on the file of the third respondent and consequently, direct the respondents 1 and 2 to provide the Medical reimbursement of Rs.2,65,700/- with the interest at 12% per annum to the petitioner from 24.09.2018 to till the date of payment within the time frame to be fixed by this Court.

2. Mr. A. Muthukaruppan, learned Additional Government Pleader takes notice for the respondents. By consent, this Writ Petition is taken up for disposal at the admission stage itself.

3. According to the petitioner, he is working as a BT Assistant at the Government Higher Secondary School, Nallore, Marthndam, Kanyakumari District is a regular member of Tamil Nadu Government New Health Insurance Scheme from the date of announcement to till date and her ID Card Number is New. KKM / 01/SB579/NHIS16/3537312. The petitioner's husband was admitted in KIMS Hospital at Trivandram, Kerala, on 15.09.2018 for his ailment of elective MICS ASD closure and the surgery was done for the closure of the ASD and thereafter, he had been discharged from hospital on 24.09.2018 and incurred expenditure to the tune of Rs.2,65,700/-. The grievance of the petitioner is that the proposal sent by her for medical reimbursement for her husband was rejected by the third respondent on ground that the treatment was taken in the non network hospital. Challenging the same the petitioner has filed the present Writ Petition before this Court.

4. According to the learned counsel appearing for the petitioner, similar writ petitions have been filed before this Court challenging the rejection of the claim on the aforesaid reason and this Court had set aside the orders passed by the authority and allowed the writ petitions with a direction to reconsider the claim afresh and the Committee shall not reject any claim merely on the reason of non network hospital or non listed disease.

5. The learned Additional Government Pleader appearing for the respondents would submit that the claim of the petitioner shall be considered by the District Level Committee or the State Level Committee afresh, in the light of the orders passed by this Court, if the petitioner is otherwise eligible for the claim of medical reimbursement, for the medical treatment underwent in the private hospital.



6. The claim of the petitioner for medical reimbursement was rejected on the ground that the said hospital was come under the purview of non-network hospital. This issue has been dealt with in the recent decision of this Court in W.P(MD)No.13429 of 2013, etc. batch **[S.Marimuthu and Others v. The Government of Tamil Nadu rep. by its Secretary, Department of Health and Family Welfare, Chennai and Others]** dated 28.05.2019, wherein this Court has elaborately discussed the issue and passed the following order:

"80.In order to reconsider all these claim made by the respective writ petitioners for medical reimbursement, by remitting the matters back, the following directions are issued:

(i)All the impugned orders in the respective writ petitions in this batch of cases, are hereby quashed.

(ii)The writ petitions where impugned orders are quashed as well as the writ petitions where mandamus sought for, are hereby remanded with directions to the concerned District Level Empowered Committee, before whom, these matters shall be placed and the Committee shall reconsider every individual case.

(iii)While reconsidering, the Committee shall not reject any claim merely on the reason of non network hospital or non listed disease.

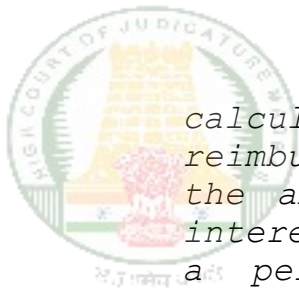
(iv)The Committee, wherever possible, shall give suitable direction to the Insurance Company to reimburse the claim made by the respective claimant / employee / pensioner.

(v)If the Committee finds some cases where the Insurance Company cannot be directed to reimburse, in those cases, suitable orders shall be passed directing / recommending the State authorities to reimburse the claim under Medical Attendance Rules.

(vi)Once such orders are passed, the Insurance Company shall immediately reimburse the medical claim with 6% interest from the date of due till date of payment, within a period of thirty days from the date of receipt of such order to be passed by the Empowered Committee of the District concerned.

(vii)On receipt of such orders / recommendation from the Empowered Committee, the Sanctioning authority / State authority / High Power Committee in the State Level shall pass necessary orders allowing the medical reimbursement claimed by the individual claimant / employee / pensioner under the Medical Attendance Rules.

(viii)While ordering medical reimbursement under Medical Attendance Rules, the rate approved, accepted or quoted by the Insurance Company under the Medical Insurance Scheme shall be taken as the rate and by



calculating the reimbursement on the said rate, the reimbursement claim shall be immediately sanctioned and the amount shall be reimbursed to the claimant with 6% interest from the date of due till date of payment, within a period of thirty days from the receipt of the recommendation / order from the District Empowered Committee".

7. Following the aforesaid order, the impugned orders passed by the third respondent, dated 15.05.2019 is quashed insofar as the reason stated that the said hospital is a non-network hospital and the matter is remitted to the third respondent and the same shall be forwarded for medical reimbursement, to the District Level Empowered Committee and the same shall be considered by the District Level Empowered Committee and pass appropriate orders in the light of the aforesaid order passed by this Court in W.P(MD)No.13429 of 2013, etc. batch cases, within a period of three months from the date of receipt of a copy of this order.

8. The Writ Petition is disposed of, with the above directions. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (AD-II)

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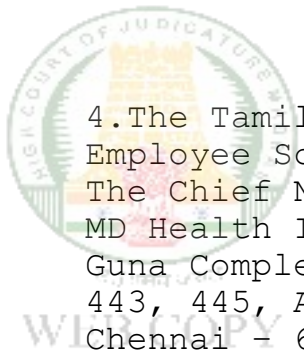
Sub Assistant Registrar

To

1.The Principal Secretary,
Department of Finance,
Secretariat, Fort. St. George,
Chennai.

2.The State of Tamil Nadu,
rep. by its Principal Secretary,
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+1 CC to M/s.T.LAJAPATHI ROY, Advocate (SR-75908[F] dated
18/07/2019)

+1 CC to M/s.SPL GP (SR-75981[F] dated 18/07/2019)

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