



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.07.2019

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

WEB COPY

W.P(MD)No.16590 of 2019
and
W.M.P(MD)No.13230 of 2019

P.Pulikkutti

.. Petitioner

Vs.

1.The Secretary to Government,
Finance (Pension) Department,
Secretariat,
Chennai - 600 009.

2.The Director of Medical and Rural Health Services,
DMS Complex,
Teynampet,
Chennai - 600 006.

3.The District Collector,
Ramanathapuram District,
Ramanathapuram.

4.The Treasury Officer,
District Treasury,
Ramanathapuram.

.. Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus calling for the records of the second and third respondents, i.e., the Director of Medical and Rural Health Services, Chennai in his Oo.Mu.No.16704/Ka.Pi.1/3/2017, dated 02.04.2018 and the District Collector, Ramanathapuram in his Letter Na.Ka.H.2/30003/2016, dated 09.01.2017 and quash the same and consequently direct the first respondent, i.e., the Secretary to Government, Finance (Pension) Department, Chennai to sanction the eligible amount to the petitioner since the claim of the petitioner cannot be rejected on the only ground that the treatment was taken in a Non-Network Hospital and not listed by the Government within a specified time frame that may be fixed by this Court and pass such further or other orders.

For Petitioner

: Mr.S.Visvalingam

For Respondents

: Mr.M.Pandiarajan,
Additional Government Pleader.

**ORDER**

The petitioner has come up with the present Writ Petition praying for the issuance of a Writ of Certiorarified Mandamus, to quash the orders passed by the second and third respondents, i.e., the Director of Medical and Rural Health Services, Chennai, in his Oo.Mu.No.16704/Ka.Pi.1/3/2017, dated 02.04.2018 and the District Collector, Ramanathapuram in his Letter Na.Ka.H.2/30003/2016, dated 09.01.2017 and consequently direct the first respondent, i.e., the Secretary to Government, Finance (Pension) Department, Chennai, to sanction the eligible amount to the petitioner, since the claim of the petitioner cannot be rejected only on the ground that the treatment was taken in a Non-Network Hospital and not listed by the Government.

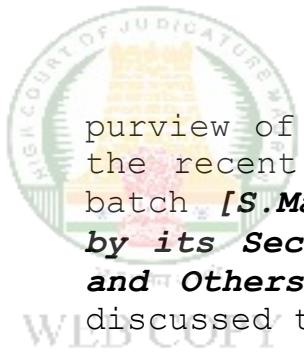
2.Mr.M.Pandiarajan, learned Additional Government Pleader takes notice for the respondents. By consent of both parties, the Writ Petition is taken up for final disposal at the stage of admission itself.

3.According to the petitioner, he is a retired pensioner and a sum of Rs.350/- per month has been recovered from his pension under the New Health Insurance Scheme. Since he has painful fever, vomiting cough and expectoration due to prostate, on 18.05.2016, he was admitted in Mithraa Multi Specialty Hospital, Paramakudi and he underwent treatment in the said hospital and discharged on 24.05.2016 and incurred the medical expenses for a sum of Rs.45,406/-. The third respondent, i.e., District Collector, Ramanathapuram, has rejected his claim of medical reimbursement on the ground that the treatment was taken in a non-network hospital. He made an appeal to the State Level Committee, the Director of Medical and Rural Health Services, Chennai, the second respondent herein, and the same was rejected by stating that the treatment was taken in a non-network hospital.

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 second and third respondents, dated 02.04.2018 and 09.01.2017 respectively, are quashed insofar as the reason stated that the said hospital is a non-network hospital and the matter is remitted to the second 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 Petition is closed.

Sd/-
Assistant Registrar (Records)

/TRUE COPY/

Sub Assistant Registrar

To

1. The Secretary to Government,
Finance (Pension) Department,
Secretariat,
Chennai - 600 009.
2. The Director of Medical and Rural Health Services,
DMS Complex,
Teynampet, Chennai - 600 006.
3. The District Collector,
Ramanathapuram District,
Ramanathapuram.
4. The Treasury Officer,
District Treasury,
Ramanathapuram.

+1 CC to M/s.S.VISVALINGAM, Advocate (SR-77519[F] dated 25/07/2019)

+1 CC to M/s.SPL GP (SR-77850[F] dated 26/07/2019)

ORDER MADE IN
W.P (MD) No.16590 of 2019
25.07.2019