



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.09.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P. (MD) No.19294 of 2019

and

W.M.P. (MD) No.15718 of 2019

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R.Janarthanan

... 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,
Tiruchirapalli District, Tiruchirapalli.
- 4.The Divisional Manager,
United India Insurance Company Limited,
Divisional Office, 5th Floor,
212, Anna Salai, Chennai-600 006.
- 5.The Treasury Officer, District Treasury,
Tiruchirapalli.

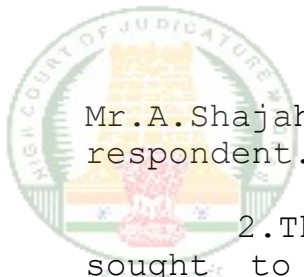
... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records of the third respondent ie., the District Collector, Tiruchirappalli in his letter மு.மு.ஜெ3/6467/2016 நாள் : 29.03.2016 and quash the same and consequently direct the first respondent ie., 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.

For Petitioner	: Mr.S.Visvalingam
For R1 to R3 & R5	: Mr.C.Ramar,
	Additional Government Pleader.
For R4	: Mr.A.Shajahan

ORDER

Heard Mr.S.Visvalingam, learned counsel appearing on behalf of the petitioner, Mr.C.Ramar, learned Additional Government Pleader appearing on behalf of the respondents 1 to 3 and 5 and



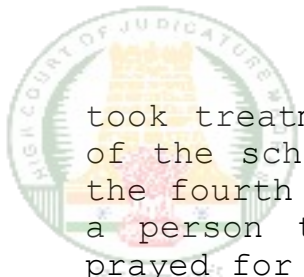
Mr.A.Shajahan, learned counsel appearing on behalf of the fourth respondent.

2.The order of the third respondent, dated 29.03.2016, is sought to be quashed in the present Writ Petition. Further direction is sought for to the first respondent 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.

3.The petitioner's mother was working as Secondary Grade Teacher in the Panchayat Union Middle School, Mutharasanallur, Srirangam Taluk, Trichy District and retired from service on 31.05.2005 on attaining the age of superannuation. The Government has issued G.O.Ms.No.171, Finance (Pension) Department, dated 26.06.2014, implementing the New Health Insurance Scheme of 2018 for the pensioners, with effect from 01.07.2014, which has also been amended in the year 2018. As per the said G.O., a sum of Rs.150/- has been recovered from her pension. The petitioner's mother due to cardiac arrest, was admitted in Dr.G.Viswanathan Hospital, New Multi Speciality Hospital, Tiruchirapalli, on 19.12.2014. In spite of the treatment given, she died on 05.01.2015. The petitioner had incurred a sum of Rs.3,97,189/- (Rupees Three Lakhs Ninety Seven Thousand One Hundred and Eighty Nine Only) towards treatment given to his mother. Therefore, the petitioner made a representation to the third respondent for reimbursement of the said amount. The third respondent forwarded the claim of the petitioner to the fourth respondent with his recommendations. The fourth respondent has rejected the claim on the ground that the petitioner's mother was given treatment in an unapproved hospital. The third respondent has forwarded the rejection of the fourth respondent, dated 17.02.2016, by his proceedings dated 29.03.2016. The District Committee has also rejected the claim, only on the ground that the petitioner's mother underwent treatment in an unapproved hospital.

4.The learned counsel appearing on behalf of the petitioner contended that the petitioner's mother joined in New Health Insurance Scheme for Pensioners (Including Spouse) / Family Pensioners, 2014 on 23.06.2014 and a sum of Rs.150/- was deducted per month from the pension of his mother towards New Health Insurance Scheme. The reason given by the respondents, for rejecting the claim of the petitioner, is invalid. He further contended that this issue was already considered by the Division Bench of this Court in W.A.(MD)No.480 of 2009. The Division Bench of this Court, by the judgment dated 26.07.2010, issued a specific direction to the Government to sanction the eligible amount under Medical Attendance Rules.

5.The learned Government Advocate appearing for the respondents 1 to 3 and 5 and the learned counsel appearing for the petitioner separately contended that the petitioner's mother



took treatment in an unapproved hospital and as per the conditions of the scheme and contract entered into between the Government and the fourth respondent, medical expenses can be reimbursed, only when a person takes treatment in an approved hospital and therefore, prayed for dismissal of the Writ Petition.

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6. From the materials on record, it is seen that the petitioner's claim was rejected only on the ground that the petitioner's mother took treatment in an unapproved hospital. The respondents have not denied that the petitioner's mother joined in New Health Insurance Scheme for Pensioners (Including Spouse) / Family Pensioners, 2014, on 23.06.2014 and a sum of Rs.150/- was deducted every month from her pension. The issue of reimbursement of medical expenses incurred in an unapproved hospital, was considered by this Court earlier. This Court has held that the insurance policy is a contract between the employer and the insurance company and the insurance company may not reject the claim of the employee or legal heirs of the employee on the ground that the treatment was taken in an unapproved hospital. In such circumstances, the Government is liable to pay eligible medical expenses, as per the Medical Attendance Rules. From the impugned order of the third respondent, dated 29.03.2016, it is seen that the District Committee after enquiry, has recommended to pay a sum of Rs.2,00,000/- (Rupees Two Lakhs Only) to the petitioner for reimbursement towards the medical expenses of his mother.

7. In view of the above, the petitioner is entitled for reimbursement of Rs.2,00,000/-, as recommended by the District Committee, as per the Medical Attendance Rules. The respondents 1 to 3 and 5 are directed to sanction a sum of Rs.2,00,000/- to the petitioner, being medical expenses incurred by him for his mother, within a period of eight weeks from the date of receipt of a copy of this order and the **(*)Fifth respondent** is directed to disburse the same to the petitioner, within a period of two weeks thereafter.

8. With the above direction, this Writ Petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AD I)

(*)the corrected made by this court dated 09.12.2019

Sd/-

Assistant Registrar (AD I)

// True Copy //

Sub Assistant Registrar (CS)



To

(*) to be substituted to the order already despatched on 01.11.2019

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,
Tiruchirapalli District,
Tiruchirapalli.

4.The Treasury Officer,
District Treasury,
Tiruchirapalli.

+1 CC to M/s.S.VISVALINGAM, Advocate (SR-104028

+1 CC to M/s.A.SHAJAHAN, Advocate (SR-89614[F] dated 26/09/2019)

+1 CC to M/s.GP (SR-90233[F] dated 27/09/2019)

W.P. (MD) No.19294 of 2019

26.09.2019

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TR(16.12.2019) 4P 8C