BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **24.09.2019**

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P.(MD)No.20526 of 2019

G.Manonmani ... Petitioner

Vs.

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

2.The Divisional Manager
United India Insurance Co., Ltd.,
Divisional Office
5th Floor
212, Anna Salai
Chennai 600 006

3.The District Collector
Madurai District
Madurai

4.The Treasury Officer
District Treasury
Madurai ... Respondents

PRAYER: Writ Petition under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records of the second respondent ie. the United Insurance Co.Ltd., Divisional Office, Chennai in his letter, dated 05.08.2019 and communicated by the Treasury Officer, Madurai in his letter No.ந.க.எண்.12830/2018/எம்1, dated 26.08.2019 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 fixed by this Court.

For Petitioner : Mr.S.Visvalingam
For R1 & R3 : Mr.S.Dhayalan
Government Advocate
For R4 :Mr.A.Shajahan

ORDER

This writ petition is filed challenging the order of the second respondent, dated 05.08.2019, which was communicated by the Treasury Officer, Madurai, in his letter No.ந.க.எண்.12830/2018/எம்1, dated 26.08.2019 and quash the same and also for a consequential direction to the first respondent ie, the Secretary to Government, Finance (Pension) Department, Chennai, to sanction the eligible amount to the petitioner.

2. The petitioner is a member of the New Health Insurance Scheme, bearing Number MDU/T/NHISP14/0112872. On 17.06.2018, she was admitted in the Hanna Joseph Hospital, Madurai, and took treatment for ' Left Anterior 1/3 RD Giant Parasagittal Meningima (Grade-I) (D32.0), Left Lower Limb Deep Vein Thrombosis (182.402), Type 2 Diabetes Mellitus (E11)' and was discharged on 13.07.2018. The total expenses incurred by the petitioner for the said surgery is Rs.5,64,000/- and she paid the same to the hospital.

3.The medical reimbursement application though recommended by the District Committee headed by the District Collector, Madurai, was rejected by the United India Insurance Co., Ltd., on the ground that the hospital, in which the petitioner underwent treatment is an unapproved hospital. It is also strangely stated in the impugned order that though Hanna Joseph Hospital, Madurai, has been empanelled on 30.06.2018, it was not an approved hospital on the date of admission.

4. The learned counsel for the petitioner contended that as per G.O.(MS)No.391, Finance (Salaries) Department, dated 10.12.2018, the petitioner is entitled for reimbursement of the amounts spent for the treatment taken in the non-network hospital, as the petitioner had to undergo bye-pass surgery on emergency basis. He also relied on the order of this Court in ***N.Raja v. The Government of Tamil Nadu reported in 2016(3) CTC 394***, wherein this Court held that when an employee underwent treatment in a non-network hospital in emergency, the employee is entitled for reimbursement of medical expenses and prayed for allowing the writ petition.

5.The learned Government Advocate appearing for the respondents 1 to 3 contended that the petitioner is knowing fully well that Hanna Joseph Hospital, Madurai, is a non-network hospital and took treatment therein. Therefore, the petitioner is not entitled for reimbursement of medical expenses from the first respondent as per the medical scheme. As per the medical scheme, the first respondent is liable to pay the medical expenses if only the treatment taken in a network hospital approved by the first respondent. If treatment is taken in the non-network hospital, the first respondent is not liable to reimburse the medical expenses spent by the petitioner. Now, the present case is concerned, admittedly, the petitioner had taken treatment in the non-network hospital, the respondents 1 & 3 are not entitled to make the payment.

6.The learned Government Advocate further contended that subsequent to G.O.Ms.No.202, dated 20.06.2016, the Government issued G.O.Ms.No.391, Finance (Salaries) Department, dated 10.12.2018, wherein it has been stated that if an employee takes treatment in a non-network hospital, in case of emergency, is entitled for reimbursement subject to eligibility of medical expenses and ceiling criteria. As per the subsequent Government Order, the first respondent is liable to pay the amount to the petitioner.

7.Heard Mr.S.Visvalingam, learned counsel appearing for the petitioner, Mr.S.Dhayalan, learned Government Advocate appearing for the respondents 1 & 3 and Mr.Shajahan, learned counsel appearing for the fourth respondent.

8. From the materials on record, it is seen that the petitioner had underwent treatment in Hanna Joseph Hospital, Madurai, which is a non-network hospital. The Insurance Policy is in between the insurance company, Government and its employer and the same is contractual in nature. The insurance company will be liable to meet the medical expenses only as per the terms of the insurance policy. In the policy, it has been held that the first respondent is liable to pay the medical expenses only if the treatment is taken in network hospital approved by the first respondent. The petitioner had taken a treatment in non-network hospital and therefore, the first respondent is not liable to pay the medical expenses incurred by the petitioner. In the order relied on by the learned counsel for the petitioner reported in ***N.Raja v. The Government of Tamil Nadu reported in 2016(3) CTC 394,*** it has been held that when an employee undergoes treatment in an emergency in non network hospital, the employee is eligible for reimbursement from the Government. Further, in Clause 5(4) of G.O.Ms.No.391, dated 10.12.2018, it is stated that an employee/eligible family members undergoes emergency treatments/surgeries, not covered under this Scheme in either Network Hospital or Non-Network Hospital, no claim can be filed under the New Health Insurance Scheme. However, they shall be eligible for claim to the extent permissible under the Tamil Nadu Medical Attendance Rules and G.O.Ms.No.1023, Health and Family Welfare Department, dated 17.06.1980. In view of the Judgment of the Division Bench of this Court relied on by the learned Single Judge in the order in ***N.Raja v. The Government of Tamil Nadu*** *reported* ***in 2016(3) CTC 394,*** the petitioner is entitled for the medical expenses incurred by her from the first respondent as per

the Medical Attendance Rules. In view of the same, the first respondent is directed to pay the amount, as per the Medical Attendance Rules, within a period of twelve weeks from the date of receipt of a copy of this order.

9. With the above observations and direction, the writ petition is allowed. No costs.

Sd/-
Assistant Registrar (AD II)

// True Copy //

Sub Assistant Registrar(CS)

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To

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

2.The Divisional Manager
United India Insurance Co., Ltd.,
Divisional Office
5th Floor
212, Anna Salai
Chennai 600 006

3.The District Collector
Madurai District
Madurai

4.The Treasury Officer
District Treasury
Madurai

+1 CC to M/s.S.VISVALINGAM, Advocate (SR-88809[F] dated 24/09/2019)

+1 CC to M/s.GP (SR-89381[F] dated 25/09/2019)

W.P.(MD)No.20526 of 2019
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