



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.10.2019

CORAM :

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THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P. (MD)No.20738 of 2019

A.M.Nazeer Ahamed Khan

... Petitioner

vs.

1.The Government of Tamil Nadu,
Rep. by its Secretary,
Department of Health and Family Welfare,
Fort St. George,
Chennai.

2.The Treasury Officer,
District Treasury Office,
Tirunelveli District - 627 009.

3.United India Insurance Company Ltd.,
Tamil Nadu Government Employees New
Health Insurance Scheme 2014,
Rep. by its Divisional Manager,
Divisional Office VI,
PLA Rathna Towers,
5th Floor, 212, Anna Salai,
Chennai - 600 006.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, seeking for issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in Na.Ka.7001/No.1/2017, dated 05.06.2017, passed by the second respondent, quash the same as illegal and consequently, direct the respondents to reimburse the medical expenses to the tune of Rs.2,39,486/- (Rupees Two Lakhs Thirty Nine Thousand Four Hundred and Eighty Six only) along with interest at the rate of 7.5%, within the time period stipulated by this Court.

For Petitioner : Mr.T.Lajapathi Roy

For R1 and R2 : Mr.S.Dhayalan
Government Advocate

For R3 : Mr.A.Shajakhan



ORDER

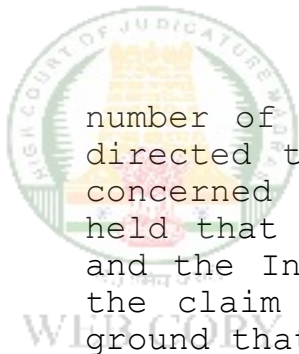
This Writ Petition has been filed seeking to quash the impugned order of the second respondent in Na.Ka.7001/No.1/2017, dated 05.06.2017 and also a consequential direction to the respondents to reimburse the medical expenses to the tune of Rs.2,39,486/- (Rupees Two Lakhs Thirty Nine Thousand Four Hundred and Eighty Six only) along with interest at the rate of 7.5% p.a., within a time frame to be fixed by this Court.

2. According to the petitioner, he was working as a Sub-Inspector of Police and retired from service on 30.06.2013 after completing 38 years of service. As per G.O.Ms.No.430, Finance (Salaries) Department, dated 10.09.2017, all the Government Employees covered under the Health Insurance Scheme, can avail reimbursement of medical expenses as a matter of right. Due to severe pain in his nerves, the petitioner was admitted as in-patient on 26.05.2016 at Galaxy Hospital, Tirunelveli, in which, a surgery was conducted on 29.05.2016 and was discharged from the Hospital on 11.06.2016. Thereafter, on 02.12.2016, the petitioner submitted all the relevant documents to avail the reimbursement of medical bills, which comes to Rs.2,39,486/- to the second respondent through proper channel, but the respondents did not sanction the medical reimbursement and the second respondent has passed the impugned order stating that they do not have any liability towards the expenses incurred by the petitioner for his treatment, which falls outside the scope of the scheme. Hence, the petitioner has approached this Court by way of filing the present Writ Petition.

3. The learned counsel appearing on behalf of the petitioner contended that the reason given by the second respondent, 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 26.02.2010, issued a specific direction to the Government to sanction the eligible amount under Medical Attendance Rules.

4. The learned Government Advocate appearing for the respondents 1 and 2 and the learned counsel appearing for the third respondent separately contended that the petitioner took treatment in unapproved hospital and as per the conditions of the scheme and contract entered into between the Government and the third respondent, medical expenses can be reimbursed, only when a person takes treatment in approved Hospital and therefore, prayed for dismissal of the Writ Petition.

5. From the materials on record, it is seen that the petitioner's claim was rejected only on the ground that the petitioner took treatment in unapproved hospital. The issue of reimbursement of medical expenses for the treatment taken in unapproved hospital was positively considered by this Court in a



number of cases and in various cases, the insurance companies were directed to reimburse the medical expenses though the employees concerned took treatment in unapproved hospitals. 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 unapproved hospital. In such circumstances, the Government is liable to pay eligible medical expenses, as per the Medical Attendance Rules.

6. In view of the above, the petitioner is entitled for reimbursement of eligible amount as per the Medical Attendance Rules. The first respondent is directed to sanction the eligible amount to the petitioner as per the Medical Attendance Rules, within a period of eight weeks from the date of receipt of a copy of this order and the third respondent is directed to disburse the same to the petitioner, within a period of two weeks thereafter.

7. With the above direction, this Writ Petition stands allowed. No costs.

Sd/-

Assistant Registrar (CS III)

// True Copy //

Sub Assistant Registrar (CS)

Smn2

To

1. The Secretary to Government of Tamil Nadu,
Department of Health and Family Welfare,
Fort St. George,
Chennai.

2. The Treasury Officer,
District Treasury Office,
Tirunelveli District - 627 009.

3. The Divisional Manager,
United India Insurance Company Ltd.,
Tamil Nadu Government Employees New
Health Insurance Scheme 2014,
Divisional Office VI,
PLA Rathna Towers,
5th Floor, 212, Anna Salai,

<https://hcservice.sleports.gov.in/hcsef/063/006>



+1 CC to M/s.GP (SR-91351[F] dated 04/10/2019)

+1 CC to M/s.A. SHAJAHAN, Advocate (SR-91472[F] dated 04/10/2019)

+1 CC to M/s.T.LAJAPATHI ROY, Advocate (SR-91545[F] dated 04/10/2019)

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