



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.09.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P. (MD) No.20760 of 2019

S.M.Irulandi

... Petitioner

-Vs-

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

2.The District Collector
Sivagangai District
Sivagangai

3.The Director of Treasuries and Accounts
No.I, Jeenis Road, Panagal Building
Saidapet,
Chennai 600 015

4.The Director of Medical and Rural Health Service
No.361, Anna Salai
DMS Complex,
Chennai

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

... 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 fifth respondent ie. the Divisional Manager, United India Insurance Co, Ltd., Chennai, dated 25.04.2017 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 an unapproved procedure, within a specified time frame that may be fixed by this Court.



For Petitioner : Mr.S.Visvalingam
For R1 to R4 : Mr.S.Dhayalan
Government Advocate
For R5 : Mr.A.Shajahan

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ORDER

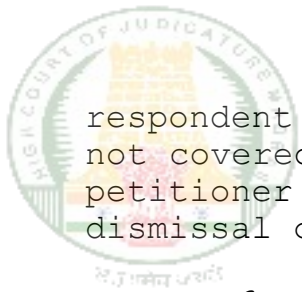
The writ petition has been filed to call for the records of the fifth respondent ie. the Divisional Manager, United India Insurance Co, Ltd., Chennai, dated 25.04.2017 and quash the same and consequently, direct the first respondent ie. the Secretary to Government, Finance (Pension) Department, Chennai, 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 an unapproved procedure, within a specified time frame that may be fixed by this Court.

2.According to the petitioner, he was working as Assistant Director of Fisheries, Fisheries Department, Mandapam and was retired on 29.02.2004 on attaining the age of superannuation. He is a member of the New Health Insurance Scheme. The Government has issued order in G.O.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 G.O.No.171, a sum of Rs.150/- has been recovered from his pension every month from May 2015 and a sum of Rs.350/- has been recovered from the year 2019.

3.In this circumstance, the petitioner was admitted in the Meenakshi Mission Hospital, Madurai and underwent for the treatment of Fournier's Gangrene DM Type II (Urology Problem). He incurred an expenditure of Rs.1,26,000/- towards treatment. The said hospital is an approved hospital. As per New Health Insurance Scheme, he is entitled to claim reimbursement and the copies of the necessary documents are also enclosed. The second respondent recommended the case of the petitioner to the fifth respondent. The said application was rejected by fifth respondent on the ground that 'the petitioner has taken treatment for his wife at Meenakshi Mission Hospital, Madurai, for an unapproved procedure'. Hence, the petitioner has come out with the present Writ Petition.

4.The learned counsel appearing for the petitioner submitted that the petitioner is entitled for reimbursement of amount, as he is the member of the New Health Insurance Scheme and the amounts are deducting from his salary towards premium. The rejection of the claim of the petitioner is not valid. Hence, he prays to allow this Writ Petition.

5.The learned Government Advocate appearing for the respondents 1 to 4 and the learned counsel appearing for the fifth



respondent contended that the treatment taken by the petitioner is not covered under the New Health Insurance Scheme and therefore, the petitioner is not entitled for reimbursement. Hence, they pray for dismissal of this Writ petition.

6.Heard Mr.S.Visvalingam, learned counsel appearing for the petitioner, Mr.S.Dhayalan, learned Government Advocate appearing for the respondents 1 to 4 and Mr.A.Shajahan, learned counsel appearing for the fifth respondent.

7.It is an admitted fact that the petitioner is the member of the New Health Insurance Scheme. He covered under the Scheme, as the amounts are deducting from his monthly pension towards premium. The Scheme is a contract between the Government and the Insurance Company. Both are bound by terms of the Scheme. When the treatment was taken by the petitioner is not covered under the Scheme, the fifth respondent is not liable to pay the medical expenditure incurred by the petitioner. At the same time, the petitioner is entitled to reimburse the same as per Medical Attendance Rules. As per Medical Attendance Rules, the Government servants or retired Government Servants are entitled to get upto a sum Rs.2,00,000/- towards medical expenses. In the present case, the petitioner has taken treatment in the approved hospital and the claim of the petitioner was recommended by the second respondent. In such circumstances, even if the fifth respondent has rejected the claim, the respondents 1 to 4 are liable to pay the medical expenses incurred by the petitioner under the Medical Attendance Rules. Therefore, the petitioner is entitled to claim a sum of Rs.1,26,000/-, which comes within the upper limit.

8.In view of the above, the fifth respondent has passed an impugned order with non-application of mind. Hence, the impugned order passed by the fifth respondent, dated 25.04.2017, is hereby quashed. The respondents 1 to 4 are directed to sanction and reimburse the eligible amount to the petitioner as per the Medical Attendance Rules, within a period of eight (8) weeks from the date of receipt of a copy of this order.

9.With the above direction, this Writ Petition is allowed. No costs.

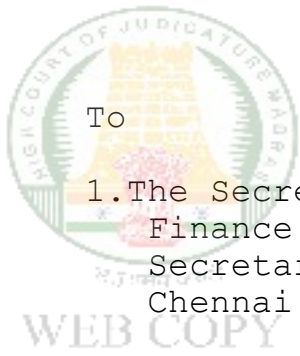
Sd/-

Assistant Registrar (CS-III)

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Sub Assistant Registrar(CS)

msa



To

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

2.The District Collector
Sivagangai District
Sivagangai

3.The Director of Treasuries and Accounts
No.I, Jeenis Road, Panagal Building
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4.The Director of Medical and Rural Health Service
No.361, Anna Salai
DMS Complex
Chennai.

+1 CC to M/s.S.VISVALINGAM, Advocate SR-89564.
+1 CC to M/s.GP (SR-90253

W.P. (MD) No.20760 of 2019
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