



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.06.2019

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

WEB COPY

W.P[MD]No.9233 of 2013

and

M.P.[MD]No.1 of 2014

V.Thavamani

... Petitioner

Vs.

1.The Commissioner of Treasuries and Accounts,
Panagal Building,
Saidapet, Chennai - 15.

2.The District Collector,
Theni District,
Theni.

3.The Joint Director of Health Services,
Theni District,
Periyakulam,
Theni District.

4.The Treasury Officer,
District Treasury,
Theni District,
Theni.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned proceedings in Rc.No.24152/2012/NHIS dated 02.05.2013 passed by the first respondent and quash the same as illegal and invalid and unconstitutional and consequentially direct the first respondent to release the medical reimbursement fund to the petitioner as per the order in Roc No.25973/2012, dated 31.10.2012 passed by the second respondent.

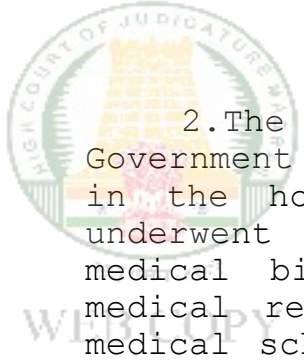
For Petitioner : Mr.P.Venkatesan

For Respondents : Mr.S.Dhayalan

Government Advocate

O R D E R

The order of rejection of medical reimbursement made by the first respondent in proceedings dated 02.05.2013 passed by the first respondent is under challenge in the present writ petition.



2.The writ petitioner was working as PG Assistant in a Government School and on account of certain ailments he was admitted in the hospital from 04.06.2012 to 14.06.2012. The petitioner underwent surgery and discharged from hospital. Along with the medical bills, the petitioner submitted an application seeking medical reimbursement claim. The petitioner was a member of the medical scheme and paying the subscription as per the claim. Thus the petitioner is eligible to avail the medical reimbursement claim as per the Government orders in force. It is pertinent to note that the claim of the writ petitioner was rejected by the Commissioner of Treasuries and Accounts on the ground that since the date of surgery has to be taken as a criteria as stated in the G.O.Ms.No.221 dated 20.06.2012. Hence, the claim cannot be given for the interim period from 11.06.2012 to 30.06.2012.

3.The rejection order was passed on the ground that there was a change of authority regarding the reimbursement to be made under the medical scheme. However, it is brought to the notice of this Court that the District Collector, Theni District, Theni and District Level Empowered Chairman in proceedings dated 21.03.2013, made an observation as follows:

"Though, the surgery was carried out on 05.06.2012 the individual stayed back in the hospital till 14.06.2012 and incurred regular medical expenses more over in G.O.Ms.No.221, dated 20.06.2012. Para No.5 sub clause (IX) government has included the interim period (From 11.06.2012 to 30.06.2012) as part of the NHIS implemented for the block year 2008-2012, for the purpose of total consideration of the eligible amount of Rs.2,00,000/-. Hence, though the Insurer Star Health Insurance denied the cashless Medical benefit to the individual the Reimbursement could be done though the Interim scheme, based on the provision mentioned, in para 5, sub clause IX of the G.O.Ms.No.221, dated 20.06.2012, as it covers a uniform block year of 2008-2012, and the total amount claimed by the individual did not exceed the limit of Rs.2,00,000/-

Hence the Committee recommended to sanction the reimbursement amount of Rs.57,182/-."

4.The Chairman of the District Empowered Committee recommended the case of the writ petitioner for sanctioning of the medical reimbursement claim amount of Rs.57,182/-. However, on technical ground, the said reimbursement is denied.

5.Medical reimbursement claim is a right of an employee. A decent medical facility is now ensured under the Constitution. The State is bound to provide a decent medical facility to all the citizens and providing of such decent medical facility is an



integral part of Article 21 of the Constitution of India. As far as the Government servants are concerned, the medical claims are available and they are paying the subscription to avail the medical claim under the scheme. Admittedly, the writ petitioner is also a member of the scheme and was paying the subscription in accordance with the terms and conditions. Thus, he is eligible to avail the benefit of the scheme. In the present case on hand, the case of the writ petitioner was recommended by the Chairman of the District Level Empowered Committee for the medical reimbursement for the amount of Rs.57,182/-. The said recommendation was not even considered and the Commissioner of Treasuries and Accounts rejected the same on certain technical ground, which is undoubtedly impermissible.

6.The authorities competent are bound to verify the genuinity of the case. They cannot reject on such technical grounds. Now, the medical reimbursement as well as the medical facility are to be provided as a fundamental right enshrined under the Constitution and the rejection of such claims on technical grounds can never be tolerated by the Courts. This being the principle to be followed, this Court is of the opinion that the impugned order of rejection is untenable. Accordingly, the impugned order passed by the first respondent in proceedings R.C.24152/2012/NHIS dated 02.05.2013 is quashed and the respondents are directed to settle the medical reimbursement claim amount of Rs.57,182/-, along with interest at the rate of 6% p.a. from the date of filing of the writ petition (ie., on 7th June, 2013), within a period of twelve [12] weeks from the date of receipt of a copy of this order.

7.Accordingly, the writ petition stands allowed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

/ True Copy /

Sub Assistant Registrar(CS-)

MR

To

1.The Commissioner of Treasuries and Accounts,
Panagal Building,
Saidapet, Chennai - 15.

2.The District Collector,
Theni District, Theni.

3.The Joint Director of Health Services,
<https://hcservices.ecourts.gov.in/hcservices/>
Theni District, Periyakulam,
Theni District.



4. The Treasury Officer,
District Treasury,
Theni District,
Theni.

+1 CC to M/s.P.VENKATESAN, Advocate (SR-67531[F] dated 10/06/2019)
+1 CC to M/s.SPL GP (SR-67388[F] dated 07/06/2019)

W.P[MD] No.9233 of 2013
06.06.2018

ES/12.07.2019/4P/7C