

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH****Date of decision: 18.01.2019****CWP No.22661 of 2014 (O&M)**

Paramjit Singh

...Petitioner

Vs.

Punjab & Haryana High Court & others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINAPresent: Mr. Arun Kumar Batra, Advocate,
for the petitioner.Mr. Daman Dhir, Advocate,
for respondents No.1 to 3.Ms. Akanksha, AAG, Punjab, with
Dr. Rajesh Kumar, Nodal Officer,
O/o Civil Surgeon, Fatehgarh Sahib
for the respondent - State of Punjab.**RAJIV NARAIN RAINA, J. (ORAL)**

The petitioner serves in the Sessions Division, Fatehgarh Sahib as Reader (Grade-II). Sanction for medical advance [80% of the estimated amount] to the petitioner for medically advised Cochlear Implant Surgery of his daughter, namely, Gurleen Kaur was accorded on 19.10.2012 by order of Hon'ble the Chief Justice and Judges. The sanction was based on the recommendations of the Civil Surgeon, Fatehgarh Sahib dated 08.10.2012 addressed to the Civil Judge (Senior Division), Fatehgarh Sahib, the Court to which the petitioner was attached. The estimated cost in respect of Cochlear Implant Surgery was Rs.8,00,000/- for which 80% i.e. Rs.6,40,000/- was paid to the petitioner in advance. The surgery was performed at the

Government Medical College & Hospital, Sector 32, Chandigarh in May, 2013.

To the surprise of the petitioner, he received a notice of recovery of an amount of Rs.1,12,254/- on the ground that sanction was approved by the Civil Surgeon, Fatehgarh Sahib to the tune of only Rs.5,227,746/-. The recovery notice was issued pursuant to a communication dated 01.10.2013 (Annex P-7) from the Director, Health & Family Welfare, Punjab addressed to the Civil Surgeon, Fatehgarh Sahib, whereby sanction/verification of rates and ex-post facto sanction was accorded to the tune of Rs.5,27,746/- at the rates obtaining in AIIMS, New Delhi for taking treatment of Gurleen Kaur for the period from 09.04.2013 to 08.05.2013 from Government Medical College & Hospital, Sector 32, Chandigarh. Aggrieved by the recovery notice, the petitioner has approached this Court by way of the present petition seeking appropriate directions to quash the recovery.

It is not a disputed fact that the Civil Surgeon, Fatehgarh Sahib had recommended for 80% medical advance based on the bills of Government Medical College & Hospital, Sector 32, Chandigarh. Based on these recommendations, the Punjab & Haryana High Court issued sanction order dated 19.10.2012 (Annex P-4) permitting medical advance of Rs.6,40,000/- i.e. 80% of the estimated amount of Rs.8,00,000/-.

The Government Medical College & Hospital, Sector 32, Chandigarh is a government institution and its estimates in respect of expenses to be incurred on Cochlear Implant Surgery are hardly disputable because those were actual expenses incurred in 2013. To pin the rates of

2005, as fixed by AIIMS, in 2013, as urged by the Punjab Government, would appear to be far too technical a plea on costing with rising prices of medical treatment during the last 8 years between publication of AIIMS rates and the year of surgery. The petitioner cannot be blamed to base his claim on the estimate of Government Medical College & Hospital, Sector 32, Chandigarh and the estimates approved by the Civil Surgeon, Fatehgarh Sahib and to act accordingly. It is not a case where treatment was taken from a private hospital and then AIIMS rates are insisted upon. The action of the respondent State in denying the claim to the extent impugned and leading to the recovery notice is wanton, arbitrary devise and is held not to be sustainable.

In view of the above, the petition succeeds and is allowed. The impugned recovery notice is quashed. The difference between actual expenses and the medical advance already disbursed along with the amount recovered pursuant to the recovery notice, if any, shall be reimbursed by the respondent State of Punjab to the petitioner within eight weeks from the date of receipt of certified copy of this order.

18.01.2019
Vimal

[RAJIV NARAIN RAINA]
JUDGE

Whether speaking/reasoned:
Whether Reportable:

Yes/No
Yes/No