IN THE HIGH COURT OF TRIPURA
A G A R T A L A
W.P.(C) No.1100 of 2019

Shri Dulal Chandra Banik,
son of late Nityadanda Banik,
resident of Kalikapur,
P.O. & P.S. Rampur,
District: West Tripura

…… **Petitioner (s)**

– V e r s u s –

1. **The State of Tripura,**
   represented by the Secretary,
   Finance Department,
   Government of Tripura,
   New Capital Complex,
   Agartala, Tripura, 799 010
2. **Tripura State Co-operative Union,**
   represented by its Chairman,
   Sarba Dharma Mission, Agartala,
   P.O. S.D. Mission, P.S. Arundhutinagar,
   District: West Tripura
3. **The Chairman,**
   Tripura State Co-operative Union,
   Sarba Dharma Mission, Agartala,
   P.O. S.D. Mission, P.S. Arundhutinagar,
   District: West Tripura
4. **Registrar of Cooperative Societies,**
   Government of Tripura,
   P.O. Palace Compound (North Gate),
   Agartala, West Tripura
5. **Executive Officer,**
   Tripura State Co-operative Union,
   P.O. S.D. Mission, P.S. Arundhutinagar,
   District: West Tripura

…… **Respondent (s)**

For the Petitioner (s)	**:**	Mr. R. Datta, Adv.
For the Respondent (s)	**:**	Mr. M. Debbarma, Addl. G.A. Mr. P. Maishan, Adv.
Date of hearing & delivery of Judgment & order	**:**	**17.12.2020**
Whether fit for reporting	**:**	**No**

HON'BLE MR. JUSTICE S. TALAPATRA

JUDGMENT & ORDER [ORAL]

Heard Mr. R. Datta, learned counsel appearing for the petitioner as well as Mr. M. Debbarma, learned Addl. G.A. appearing for the respondent No.1 and Mr. P. Maishan, learned counsel appearing for the respondents No.2-5.

[2] The petitioner has been suffering from chronic Kidney Disease (CKD), stage-3 for Renal Dysfunction. That apart, he has been continuously under treatment from the year 2012. The petitioner was referred to CMC Vellore by AGMC and GBP hospital. After the treatment was availed on reference, the petitioner submitted the medical reimbursement bills and TA bills to the respondents for reimbursement. But it has been argued that the reimbursement bills and TA bills of the petitioner dated 20.12.2016 amounting to Rs.82,756/-, the bill dated 23.04.2018 amounting to Rs.54,454/- and the bill dated 20.06.2019 amounting to Rs.64,603/- in total Rs.2,01,813/- [Rs.82,756/+Rs.54,454/-+Rs.64,603/-]. The petitioner has urged this court to direct the respondents to reimburse Rs.2,01,813 in total with interest. The petitioner has also claimed reimbursement of his travelling allowance to the extent of Rs.50,895/-. Since the said

reimbursement has been denied by the respondents No.2 & 3 in particular, the petitioner has approached this court by filing this petition.

[3] There is no dispute that the petitioner has been suffering from Chronic Kidney Disease (CKD) stage-3 i.e. Renal Dysfunction for which the petitioner has been continuously under treatment from the year 2012. The petitioner was admitted in the AGMC and GBP hospital, Agartala for severity of Nephrological problems. Since the GBP hospital did not have facility of treatment of that category of Nephrology, the petitioner was referred to the Christian Medical College, Vellore. A certificate for referral to outside hospital was issued on 09.02.2015 by AGMC and GBP hospital, Agartala.

[4] The petitioner had availed the treatment at Christian Medical College accordingly and came back to Agartala, and submitted medical reimbursement bills supported by bills, vouchers and other documents. Those bills were submitted by a forwarding letter dated 20.12.2016 to the respondent No.3 for payment. Finally, the petitioner was informed that the medical reimbursement cannot be made as no such beneficial scheme is available with the respondent No.2. In 2016, the petitioner was referred to the Christian Medical College, Vellore. He had submitted

his treatment bill of Rs.50,895/- along with bills, vouchers and documents in support of that claim to the Director of Health Services, Government of Tripura By the letter dated 23.05.2017 [Annexure-3 to this petition] the respondent No.5 had informed that the reimbursement amount claimed by the petitioner to the extent of Rs.50,895/- had been approved. The respondent No.5 even issued a sanction memo dated 05.07.2017 for reimbursement of the medical expenses and the travelling expenses for the amount of Rs.50,895/-. Even the petitioner had received the said amount.

[5] In the year, 2018 the petitioner fell seriously ill, due to his Chronic Kidney Disease [stage-3]. He was again referred to the Christian Medical College Vellore. On availing treatment in that hospital when petitioner came back and raised a bill of Rs.54,454/- supported by vouchers etc., the respondents particularly, the respondent No.5, by the letter dated 06.09.2018 regretted to pay the said bill. The petitioner issued a demand notice on 14.09.2018 asking to release the payment as regards medical reimbursement bills and TA bills.

[6] In response to the demand notice, the respondent No.5 issued a letter dated 20.09.2018 stating that the Finance Department, Government of Tripura has regretted to approve such

payment by observing that the petitioner is not entitled to get reimbursement of TA bills. It has been claimed by the petitioner that the Law Department had advised that the bills for its reimbursement be placed before the Board of Directors of Tripura State Cooperative Union with all particulars of the case.

[7] By a communication dated 08.07.2019, the petitioner was apprised that the entire matter will be placed before the next board meeting of TSCU [the respondent No.1]. The petitioner had again been admitted in the GBP hospital in the month of March, 2019. In the same way, the petitioner was referred to the CMC, Vellore for better management of his illness. After availing the treatment there, the petitioner returned and on 20.06.2019 with a forwarding letter to the respondent No.5 raised the medical reimbursement bills. But nothing positive has yielded as yet.

[8] Mr. R. Datta, learned counsel appearing for the petitioner has quite strenuously argued that in terms of the Tripura State Co-operative Societies Employees Service Rules (3rd Amendment) 1995, an employee of the Union shall be entitled to *'the benefit of Leave Travel Concession and Medical advance'*. Thereafter, Mr. Datta, learned counsel has contended that in the year 2012, the medical reimbursement was entertained by the

respondents, but this time, they are showing the volte-face to the detriment of the petitioner.

[9] By another letter dated 17.07.2019 [Annexure-14 to this writ petition] the petitioner was further apprised that the new Board of Directors has not been nominated and as a result the matter could not be placed before them. In this perspective-fact the petitioner has urged this court for directing the respondents to release the medical reimbursement bills and TA bills of the petitioner. The total amount claimed by the petitioner comes to Rs.2,01,813/-. The details have been referred before. The petitioner has further prayed for the statutory interest for the delayed payment.

[10] The respondents by filing the reply has categorically stated that there is no rule or scheme for the medical reimbursement, based on which the petitioner can claim the reimbursement of his medical expenses. As such, no claim against the respondents No.1-4 and also against the respondent No.2, 3 and 4 would be tenable. The respondents No.2-5 have acceded that, on one occasion, as referred above, the medical reimbursement was made on approval of the Board of Directors.

[11] Mr. M. Debbarma, learned Addl. G.A. appearing for the respondent No.1 has submitted that the petitioner's service conditions are totally governed by the Employees Recruitment and Service Procedure. According to that procedure, 'employee' has been defined in clause 1(5)(h) as under:

> **"Employee: Employee means a person appointed either temporarily or permanently in the service of the Union and includes officer, clerk, Peon and any other salaried person appointed by the Tripura State Co-operative Union."**

[12] There is no dispute that the petitioner is an employee of the Tripura State Co-operative Union. Mr. Debbarma, learned Addl. G.A. has apprised this court that by way of adoption some of benefits, available to the state government employees have been introduced by the Tripura State Co-operative Union. Scales and gradation formula as provided under ROP Rules, 2009 have been adopted. But there is omnibus adoption of all benefits. Hence the State Government does not have any sort of financial responsibility so far the individual employee is concerned, but on the basis of arrangement, in respect of a few financial matters, duly categorized, files are sent to the Finance Department for technical approval.

[13] Mr. Datta, learned counsel appearing for the petitioner has added that even the Leave Travel Concession (LTC) and Medical advance are provided to the employees of the respondent

No.2. On the query of this court, Mr. Datta, learned counsel has acceded that there is no provision for medical reimbursement in the said procedure, even he has not come across any such provision made by the Board of Directors of the said society. Mr. Datta, learned counsel has also drawn attention of this court to the aspect that the petitioner is getting similar benefits, equivalent to the State Government employees viz. retirement gratuity and cash equivalent of unutilized earn leave as per the rules framed by the Government of Tripura. Mr. Datta, learned counsel has admitted that the Executive Officer, Tripura State Co-operative Union by his letter dated 17.07.2019 [Annexure-14 to this petition] has assured the petitioner that before the next meeting, his claim would be placed for appropriate decision. Mr. Datta, learned counsel has further submitted that the medical reimbursement bill was submitted on 23.04.2018 but till date no decision has been taken.

[14] Mr. P. Maishan, learned counsel having appeared for the principal-respondents has contended that when there is no rule as regards the reimbursement of the medical expenses, even if the petitioner has availed the medical facility outside the state on reference by the Standing Medical Board the petitioner can claim medical reimbursement. In one occasion, with approval from the

Board of Directors the medical reimbursement bill was paid. Unless the Board of Directors approved similarly considering that the treatment for illness that the petitioner has been suffering is not available in Tripura and for that compelling reason he was sent outside Tripura for treatment. Mr. Maishan, learned counsel has in a nutshell contended that since the petitioner does not have any crystallized right to claim the medical reimbursement unless the Board of Directors approves the sanction of reimbursement, the petitioner cannot claim any benefit.

[15] This court has given an anxious consideration to the plight of the petitioner and having appreciated the averment and the documents as placed this court is of the view that the decision as contained in the communication dated 06.09.2018 [Annexure-6 to the writ petition] issued by the Executive Officer, Tripura State Co-operative Union does not suffer from any infirmity. But considering the fact the petitioner is recruited as Peon under the Tripura State Co-operative Union, the Board of Directors, when the said board would be constituted, shall consider the claim of the petitioner with a touch of humanity and take the appropriate decision as the Board had taken on earlier occasion. When the new board shall be constituted, if not already constituted, the

respondent No.5 shall place the case of the petitioner before the Board for their decision. The board shall consider the claim in the same meeting when it will be placed before it so that the petitioner can get an early solace.

With this observation, this petition stands disposed of.

No order as to costs.

JUDGE

HIGH COURT OF TRIPURA

Moumita