BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: **15.09.2020**
CORAM
**THE HON'BLE MR.JUSTICE R.SURESH KUMAR**

W.P.(MD)No.3723 of 2020
(Through Video conferencing)

A.Lakshmana Perumal ...Petitioner

-Vs-

1.The Principal Secretary/Commissioner of Treasuries and Accounts,
New Health Insurance Scheme 2016
Integrated Office Complex for Financial Department,
Nandhanam, Chennai.

2.The District Collector,
Madurai,
Madurai District.

3.M/s.The United India Insurance Company Ltd.,
represented by its Divisional Manager,
PLA Rathna Towers, 5th Floor,
212, Anna Salai, Chennai - 06. ...Respondents

Prayer: Writ Petition - filed under Article 226 of Constitution of India, to issue a writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the 2nd respondent in Na.Ka.No.E5/51096/2016 dated 27.01.2020 and to quash the same and consequently direct the respondents to reimburse the medical expenses of Rs.83,181/- with interest to the petitioner under the New Health Insurance Scheme within the time frame fixed by this Court.

For Petitioners : Mr.R.J.Karthick
For Respondents : Mr.M.Jeyakumar, AGP for RR1 & 2
Mr.A.Shajahan, for R3

**ORDER**

The Prayer sought for in this writ petition is for a writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the 2nd respondent in Na.Ka.No.E5/51096/2016 dated 27.01.2020 and to quash the same and consequently direct the respondents to reimburse the medical expenses of Rs.83,181/- with interest to the petitioner under the New Health Insurance Scheme within the time frame fixed by this Court.

2.The petitioner is an employee working in the Registry of this Court, who is member of New Health Insurance Scheme, 2016 for Government employees, which covers the petitioner and the family members as well. While so, due to sudden medical emergency, on 19.12.2018 at early morning around 3.45 a.m., the petitioner's wife suffered severe and unbearable pain. Therefore, she rushed to a private hospital, where, she was admitted, after diagnosed, next day a surgery was suggested and she underwent a surgery and thereafter, she discharged from the hospital.

3.In this regard, the petitioner has incurred a sum of Rs.83,181/- towards treatment expenses and in order to get reimbursement, the petitioner made application on 31.12.2018. However, the same, after having been considered by the 3rd respondent District Collector, through the impugned communication, has been rejected on the ground that, the petitioner has not produced a certificate from the treating Doctor that, the treatment underwent was an emergency procedure. Challenging the said impugned order, the present writ petition has been filed.

4.I have heard the learned counsel appearing for the petitioner, who would submit that, what was the sudden emergency faced by the petitioner is severe and unbearable pain developed to his wife on the said date, i.e. on 19.12.2018, which has been explained in the affidavit at para 4, which reads thus:

> "I further submit that while being so, on 19.12.2018, early morning around 3.45 a.m., my sife suffered severe and unbearable pain. Hence, we rushed to Arun Hospital at Munichalai Road, Madurai, which is a Non-Network Hospital. Since the pain was severe and the Doctor at Arun Hospital also advised to get admitted to undergo surgery. The next day on 20.12.2018, my wife underwent Laparoscopic Hysterectomy. Moreover, the Biopsy Report also shows that there is no abnormality like that of cancer as opined by the Meenakshi Mission Hispital. Further, only for the above said unavoidable circumstances in an emergent situation, the surgery was undergone in a Non-Network hospital."

5.Subsequently, she was admitted in the said hospital on 19.12.2018 i.e., early morning 3.45 a.m., where, after diagnosed the petitioner's wife, the Doctor has recorded in the discharge summary what is the complaint of the petitioner, which shows thus:

> "Presenting Complaints:
>
> 38 yrs old Mrs.Raja Lakshmi/P1L1/came with C/o pain abdomen and menorrhagia - 2 months USG and MRI taken suggestive of Bulky uterus with adenomyosis and Right ovarian chocolate cyst. Hence Patient admitted for further management."

6.Subsequently, she underwent the surgery and recovered from the untold pain and sufferings. Therefore, the petitioner is entitled to get medical reimbursement, which has not been properly considered, despite the discharge summary and other medical details having been submitted to the respondents and therefore, the impugned order for the said reason cannot be sustained. Hence, he seeks indulgence of this Court.

7.Heard the learned Additional Government Pleader appearing for the respondents 1 to 3, who would submit that, whether for medical emergency, the petitioner's wife was admitted in the private hospital, which is a Non-Network hospital on medical emergency procedure or not has to be ascertained and in this regard, no such certificate since has been produced by the petitioner from the concerned Doctor, who treated his wife, such reason has been given and the request of the petitioner was rejected through the impugned order.

8.I have considered the submissions made by the learned counsel for both parties and have perused the materials available on record.

9.The circumstances, under which, for a medical emergency, the petitioner's wife was admitted at wee hours on 19.12.2018, has been explained by the petitioner at para 4 of the affidavit, which has been extracted hereinabove and also in the discharge summary given by the hospital concerned, what was the complaint of the petitioner at the time of admission at the hospital, which required an immediate medical attention including a surgery, has also been explained. Though these documents with medical details having been submitted by the petitioner, the same seems to have not been considered in proper perspective and again, the respondent District Collector, through the impugned order has sought for certificate from the treated Doctor that, the treatment underwent by the petitioner's wife was an emergency procedure.

10.Whether particular treatment was an emergency procedure or not cannot be decided either by this Court or by the respondents and it can only be decided by the concerned Doctor, who treated the patient. Here in the case in hand, the Doctor, who treated the patient has given discharge summary, where, the complaints of the petitioner's wife at the time of admitting her in the hospital for a sudden medical emergency has been explained. When that being so, this Court feels that there is no plausible reason on the part of the respondents to seek once again certificate from the Doctor concerned.

11.Moreover, since the petitioner is a member of New Health Insurance Scheme, for which, he is subscribing every month from his salary, such kind of flimsy reason cannot be cited by the respondents for rejecting the medical reimbursement and the main intention of the medical insurance scheme is to help the government servants and pensioners from the sudden expenses they have to incur for the medical treatment for them as well as their family members.



12.This Court repeatedly held that, for medical reimbursement, even though the treatment is taken in a Non-Network hospital, that cannot be the reason for the respondents or authorities concerned to reject the claim of medical reimbursement and even in the absence of conditions of contract between the Government and the insurance company, such kind of treatment taken from Non-Network hospital can be considered and decided the quantum of the amount to be paid by way of medical reimbursement by invoking the provisions of Medical Attendance Rules. In this regard, the judgment of this Court dated 28.05.2019 made in W.P.(MD) No.13429 of 2013 in the matter of ***S.Marimuthu, E.X. V.A.O. Vs. The Government of Tamil Nadu, Represented by its Secretary, Department of Health and Family Welfare, Fort St.George, Chennai and two others*** can very well be pressed into service, where at para 80 of the judgment, this Court has passed the following order:

> "80. In order to reconsider all these claim made by the respective writ petitioners for medical reimbursement, by remitting the matters back, the following directions are issued:
>
> (i) All the impugned orders in the respective writ petitions in this batch of cases, are hereby quashed.
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> (ii) The writ petitions where impugned orders are quashed as well as the writ petitions where mandamus sought for, are hereby remanded with directions to the concerned District Level Empowered Committee, before whom, these matters shall be placed and the Committee shall reconsider every individual case.
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> (iii) While reconsidering, the Committee shall not reject any claim merely on the reason of non network hospital or non listed disease.
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> (iv) The Committee, wherever possible, shall give suitable direction to the Insurance Company to reimburse the claim made by the respective claimant / employee / pensioner.
>
> (v) If the Committee finds some cases where the Insurance Company cannot be directed to reimburse, in those cases, suitable orders shall be passed directing / recommending the State authorities to reimburse the claim under Medical Attendance Rules.
>
> (vi) Once such orders are passed, the Insurance Company

shall immediately reimburse the medical claim with 6% interest from the date of due till date of payment, within a period of thirty days from the date of receipt of such order to be passed by the Empowered Committee of the District concerned.



(vii) On receipt of such orders /recommendation from the Empowered Committee, the Sanctioning authority / State authority / High Power Committee in the State Level shall pass necessary orders allowing the medical reimbursement claimed by the individual claimant / employee / pensioner under the Medical Attendance Rules.

(viii) While ordering medical reimbursement under Medical Attendance Rules, the rate approved, accepted or quoted by the Insurance Company under the Medical Insurance Scheme shall be taken as the rate and by calculating the reimbursement on the said rate, the reimbursement claim shall be immediately sanctioned and the amount shall be reimbursed to the claimant with 6% interest form the date of due till date of payment, within a period of thirty days from the receipt of the recommendation / order from the District Empowered Committee."

13.In view of the aforesaid judgment and the reasons cited therein, since the petitioner has already submitted all the necessary documents from the hospital concerned as has been quoted above, where, the emergency situation has been clearly explained, the reason, cited in the impugned order for rejecting the claim of the petitioner for medical reimbursement, cannot be accepted as it will not be sustained.

14.In that view of the matter, this Court is inclined to dispose of this writ petition, with the following order:

"The impugned order dated 27.01.2020 insofar as the petitioner is concerned is hereby quashed and the matter is remitted back to the 2nd respondent for reconsideration. While reconsidering the same, the 2nd respondent shall take into account the aforesaid observation made by this Court and also the discharge summary and other medical details submitted by the petitioner and decide the quantum of medical reimbursement, for which, the petitioner entitled to and disburse such amount to the petitioner, within a period of eight weeks from the date of receipt of a copy of this order".

15.With this direction, this writ petition is disposed of. No costs.

Sd/-
Assistant Registrar (CO)

// True Copy //

/ /2020
Sub Assistant Registrar(CS)

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Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The Principal Secretary/Commissioner of
Treasuries and Accounts,
New Health Insurance Scheme 2016
Integrated Office Complex for
Financial Department,
Nandhanam, Chennai.

2.The District Collector,
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Madurai District.

3.M/s.The United India Insurance Company Ltd.,
represented by its Divisional Manager,
PLA Rathna Towers, 5th Floor,
212, Anna Salai, Chennai – 06.

+1 CC to M/s.SPL GP ( SR-17071[F] dated 16/09/2020 )

+1 CC to M/s.R.J.KARTHICK, Advocate ( SR-17046[F] dated 16/09/2020 )

+1 CC to M/s.A.SHAJAHAN, Advocate ( SR-17193[F] dated 16/09/2020 )

Order made in
**W.P.(MD)No.3723 of 2020**
**15.09.2020**

**(TP)CO**
**AP(30/12/2020) 6P 7C**