



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **01.09.2020**

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THE HON'BLE MR.JUSTICE R.SURESH KUMAR

W.P. (MD)No.10613 of 2020

V.Rethnaraj

...Petitioner

-Vs-

1.The Secretary to Government,
Finance (Pension) Department,
Fort St. George,
Chennai-600 009.

2.The Director of Pension,
2nd Floor, 3rd Block,
D.M.S.Office,
Tenampet,
Chennai-600 006.

3.The District Collector,
Kanyakumari District,
Nagercoil.

4.The Joint Director,
Medical and Rural Health Service Department,
Kanyakumari District.

5.The Treasury Officer,
District Treasury,
Kanyakumari District,
Nagercoil.

6.The Divisional Manager,
United India Insurance & Co Limited,
PLA Rathina Towers,
5th Floor, No.212, Anna Salai,
Chennai-600 006.

...Respondents

Prayer: Writ Petition - filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the records of the 5th Respondent i.e., Treasury Officer, District Treasury, Kanyakumari District, Nagercoil in Rc.No.21977/2015-2019 (37A)/L2 Dated 23.12.2019 and quash the same and consequently direct the respondents to sanction the eligible amount to the petitioner under the provisions contained under Tamil Nadu Medical Attendance



Rules irrespective of the fact whether the hospital is approved or not.

For Petitioner : Mr.N.Mohamed Asif
For R1 to R5 : Mrs.J.Padmavathi Devi,
Special Government Pleader
For R6 : Mr.A.Shajahan

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ORDER

The prayer sought for in this writ petition is for a Writ of Certiorarified Mandamus calling for the records of the 5th Respondent i.e., Treasury Officer, District Treasury, Kanyakumari District, Nagercoil in Rc.No.21977/2015-2019 (37A)/L2 Dated 23.12.2019 and quash the same and consequently direct the respondents to sanction the eligible amount to the petitioner under the provisions contained under Tamil Nadu Medical Attendance Rules irrespective of the fact whether the hospital is approved or not.

2.Heard Mr.N.Mohamed Asif, learned counsel appearing for the petitioner, Mrs.J.Padmavathi Devi, learned Special Government Pleader appearing for the respondent 1 to 5 and Mr.A.Shajahan, learned Counsel appearing for the sixth respondent.

3. The petitioner had been working in the Department of Transport and retired from service on superannuation. Therefore, now is a pensioner and he is also member of the Medical Reimbursement Insurance Scheme meant for pensioners and accordingly, after he undergone surgery on 07.05.2016 at P.R.S.Hospital, Tiruvandrum due to emergency he was admitted as inpatient for more than a week and discharged on 15.05.2019, therefore, in order to reimburse the amount paid to the extend of Rs.1,26,527/- he made an application with necessary medical bills as well as the discharge summary given by the hospital concerned to the respondents.

4.It seems that, the said claim of the petitioner along with some other similarly placed persons having been considered by the District Level Empowered Committee, that was forwarded to the Treasury Officer i.e., the fifth respondent for appropriate action that means for reimbursement. However, the fifth respondent through impugned order, dated 23.12.2019, has rejected the claim of the petitioner by stating that the case of the petitioner has not been recommended under G.O.(Ms)No.222, Finance (Pension) Department, dated 30.06.2018.

5.Challenging the said order rejecting the Medical Reimbursement claim made by the petitioner, this writ petition has been filed.



6.I have heard the learned counsel appearing for the petitioner, the learned Special Government Pleader appearing for the respondents 1 to 5 and the learned counsel appearing for the sixth respondent and perused the materials placed before this Court.

7. Insofar as the claim of medical reimbursement under the Insurance Scheme is concerned, there has been a contract between the State Government and the Insurance Company, whenever the scheme was introduced and subsequently reintroduced, according to the contract, two major ingredients were available, they are (1) that the member of the Insurance scheme and his or her family shall take treatment only in approved / networking hospitals, which have been specifically mentioned in the Annexure to the scheme itself and (2) they shall take treatment only for the listed diseases / surgeries. With regard to the said two reasons, for which several such claims since have been rejected, number of writ petitions were filed time and again and nearly about 100 writ petitions were heard in a batch of cases in W.P(MD)No.13429 of 2013 etc., batch, dated 28.05.2019 in the matter of **S.Marimuthu Vs. The Government of Tamil Nadu and others**. In the said judgment, after having discussed all these issues including Government Order now has been quoted through the impugned order and the earlier orders of this Court, this Court has given a set of directions.

8. The import of such directions is that if at all the Government Servant or the pensioner is not eligible to get the medical reimbursement because of the contract conditions, even then, the Government servant shall be entitled to get the reimbursement based on the Tamil Nadu Medical Attendance Rules and therefore, on that basis, the claim shall be considered and necessary reimbursement shall be made then and there. Thus, this Court feels that, the present order dated 23.12.2019 made in respect of the petitioner, which is impugned herein, cannot be sustained.

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

"that the impugned order dated 23.12.2019 is quashed and the matter is remitted back to the respondents for reconsideration. While making such reconsideration, the import of the directions given by this Court in W.P(MD)No.13429 of 2013 etc., batch dated 28.05.2019 shall be taken into account and while taking the decision, the respondents shall borne-in-mind the said directions that the medical reimbursement either shall be made by the Insurance Company concerned or by the Government through the Tamil Nadu Medical Attendance Rules. The needful as indicated above, shall be undertaken, within a period of eight weeks from the date of receipt of a copy of this order.



10. With this observations and direction, the Writ Petition is disposed of. No costs.

Sd/-

Assistant Registrar (P&A)

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/ /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 Secretary to Government,
Finance (Pension) Department,
Fort St. George, Chennai-600 009.
- 2.The Director of Pension,
2nd Floor, 3rd Block, D.M.S. Office,
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- 3.The District Collector,
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- 4.The Joint Director, Medical and Rural Health Service Department,
Kanyakumari District.
- 5.The Treasury Officer, District Treasury,
Kanyakumari District, Nagercoil.

+1 CC to M/s.N. MOHAMED ASIF, Advocate (SR-15613[F] dated 02/09/2020)

+1 CC to M/s.GP (SR-15714[F] dated 02/09/2020)

+1 CC to M/s.A. SHAJAHAN, Advocate (SR-15644[F] dated 02/09/2020)

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