



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.09.2020

CORAM:

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P. (MD)No.11134 of 2020

S.Sheela Sreedhar

... Petitioner

Vs.

1.The Principal Secretary to Government,
Finance Department,
Fort St.George,
Chennai-09.

2.The Director of Medical and Rural Health Service,
Directorate, DMS compound,
Annasalai, Theynampet,
Chennai.

3.The Deputy Director of Medical and
Rural Health Service and Family Welfare,
District Family Welfare Bureau,
Nagercoil,
Kanyakumari District.

4.The Divisional Manager,
United India Insurance Company Ltd.,
Division Officer VI, PLA Rathna Tower,
5th Floor, Annasalai,
Chennai-6.

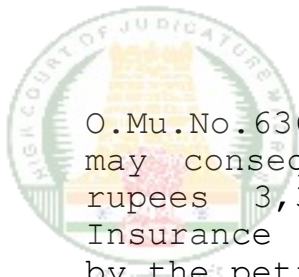
... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari to call for the records relating to the impugned order passed by the second respondent vide his proceedings O.Mu.No.6361/Ka.Pa.1/3/2019 dated 26.08.2019 and quash the same as illegal and may consequently direct the respondents to pay medical bill of rupees 3,32,233/- to the petitioner payable under New Health Insurance Scheme 2016 for reimbursing Medical Expenditure incurred by the petitioner's wife with the interest at the rate of 12%.

For Petitioner	: Mr.A.Balakrishnan
For R1 to R3	: Mr.M.Jeyakumar
	Additional Government Pleader
For R4	: Mr.A.Shajahan

ORDER

The prayer sought for herein is for a Writ of Certiorari to call for the records relating to the impugned order passed by the second respondent vide his proceedings



O.Mu.No.6361/Ka.Pa.1/3/2019 dated 26.08.2019 and quash the same and may consequently direct the respondents to pay medical bill of rupees 3,32,233/- to the petitioner payable under New Health Insurance Scheme 2016 for reimbursing Medical Expenditure incurred by the petitioner's wife with the interest at the rate of 12%.

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2.The petitioner has been working as a teacher. On 03.09.2018, the petitioner along with her husband visited Trivandrum where the petitioner's husband developed chest pain. After taking treatment in PRS hospital therein, he was discharged. Subsequently on 06.09.2019, again he was affected with chest pain and admitted in KIMS hospital and after diagnosis, it was found that the petitioner's husband was affected with Coronary Artery Disease, Diabetes Mellitus. Therefore, a bypass surgery was emergently taken place on 07.09.2018. Thereafter, he was discharged from the hospital on 12.09.2018. In this regard, the petitioner claimed to have spent a sum of Rs.3,32,233/-. The petitioner is already a member of New Health Insurance Scheme, 2016, introduced by the Government of Tamil Nadu where the maximum cap of medical reimbursement is Rs.4 Lakhs. Therefore, the petitioner made request to the third respondent which seems to have been referred to the second respondent, where after having considered the same, the request of the petitioner has been turned out by the order of the second respondent dated 26.08.2019 where the reason stated is that the treatment was taken in a non-network hospital and non emergency condition. Therefore, the plea of the petitioner for medical reimbursement was rejected. Challenging the said order, the present writ petition has been filed.

3.Heard Mr.A.Balakrishnan, the learned counsel for the petitioner and M.Jeyakumar, learned Additional Government Pleader appearing for respondents 1 to 3 and Mr.A.Shajahan, learned Standing Counsel appearing for respondent No.4.

4.The reason of non-network hospital or non-emergency condition can no more be a valid reason for rejecting the medical reimbursement claim made by the Government Servants who have covered under the Medical Insurance Scheme being undertaken by the State Government with the Insurance companies. The aforesaid issue has been considered by my order dated 28.05.2019 in a batch of writ petitions in W.P.(MD)No.13429 of 2013 in the matter of **S.Mani Vs Government of Tamil Nadu** and others where after having considered, I have passed the following orders:

"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.



(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.

(iii) While reconsidering, the Committee shall not reject any claim merely on the reason of non network hospital or non listed disease.

(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."

5. Therefore, in view of the above said orders, the respondent cannot reject the claim of the petitioner for medical reimbursement on the ground of non-network hospital or non-emergency condition. If at all the contract condition between the insurance company and the government did not permit the reimbursement of the medical claim, in such situation, the respondents have to consider such a request under Medical Attendance Rules and the eligible amount payable to the claimant has to be paid.



6. Therefore in that view of the matter, this Court feels that the reasons stated in the impugned order cannot be sustained and accordingly the impugned order is liable to be interfered with. As a result, the order passed by the second respondent in O.Mu.No.6361/Ka.Pa1/3/2019 dated 26.08.2019 stands quashed and the matter is remitted back to the respondent for reconsideration. While reconsidering the issue, the order passed by this Court quoted herein above dated 28.05.2019 shall be taken into account. Accordingly decide the issue and pass final orders granting reimbursement of the petitioner with the extend the petitioner is eligible to get the same under the Medical Attendance Rules. The needful as indicated above shall be undertaken within a period of eight weeks from the date of receipt of copy of this order.

7. With this direction, this Writ Petition is disposed of. No costs.

Sd/-

Assistant Registrar (CSI)

// 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 to Government,
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Chennai-09.
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3. The Deputy Director of Medical and
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Kanyakumari District.



+1 CC to M/s.A. SHAJAHAN, Advocate (SR-16411[F] dated 09/09/2020)

+1 CC to M/s.A. BALAKRISHNAN, Advocate (SR-16428[F] dated 10/09/2020)

+1 CC to M/s.SPL GP (SR-16509[F] dated 10/09/2020)

W.P. (MD) No.11134 of 2020
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CK (CO)

KB (04.11.2020) 5P 7C