



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.09.2020

CORAM

THE HON'BLE MR. JUSTICE R. SURESH KUMAR

W.P. (MD) No. 11462 of 2020

and

W.M.P. (MD) Nod. 10013 and 10015 of 2020

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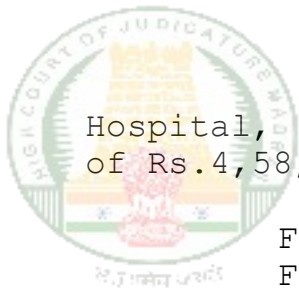
M. Neelakanda Pillai

...Petitioner

-Vs-

1. The State of Tamil Nadu,
Represented by the Additional Chief Secretary
to the Government,
Finance Department, Fort St. George,
Chennai-600 009.
2. The Directors of Pensions,
Integrated Complex of Finance Department,
Finance Department, Nandanam,
Chennai-600 035.
3. The Treasury Officer,
District Treasury, Nagercoil,
Kanyakumari District.
4. The District Collector Cum Chairman,
District Empowered Committee,
Tamil Nadu Health Insurance Scheme,
Nagercoil, Kanyakumari District.
5. The District Co-Ordinator,
MD India Health Insurance (TPA) Pvt. Ltd.,
No. 84, Lousiamma Street,
WCC Junction, Nagercoil,
Kanyakumari District.
6. The United Insurance Co. Ltd.,
Divisional Office-VI,
5th Floor, PLA Rathna Tower,
212, Anna Salai, Chennai-600 006. ...Respondents

Prayer: Writ Petition is filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the proceedings of the 6th respondent dated 18.02.2020 and quash the same insofar as the order rejecting the medical reimbursement claim of the petitioner in Serial No. 13 of the proceedings is concerned and consequently, direct the respondents to reimburse the medical expenses borne out by the petitioner in KIMS



Hospital, Trivandram from 01.07.2019 to 21.07.2019 for a total sum of Rs.4,58,910/-.

For Petitioner : Mr.C.K.M.Appaji
For R1 : Mrs.J.Padmavathy Devi,
Special Government Pleader.
For R2 to R5 : Mr.S.Dhayalan,
Government Advocate.
For R6 : Mr.A.Shajahan

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ORDER

The prayer sought for herein is for a Writ of Certiorarified Mandamus, calling for the records pertaining to the proceedings of the 6th respondent dated 18.02.2020 and quash the same insofar as the order rejecting the medical reimbursement claim of the petitioner in Serial No.13 of the proceedings is concerned and consequently, to direct the respondents to reimburse the medical expenses borne out by the petitioner in KIMS Hospital, Trivandram from 01.07.2019 to 21.07.2019 for a total sum of Rs.4,58,910/-.

2.Heard Mr.C.K.M.Appaji, learned counsel appearing for the petitioner, Mrs.J.Padmavathi Devi, learned Special Government Pleader, who takes notice for the first respondent, Mr.S.Dhayalan, learned Government Advocate, who takes notice for the respondents 2 to 5 and Mr.A.Shajahan, learned counsel, who takes notice for the 6th respondent.

3.With the consent of the learned counsel on both sides, this Writ Petition is taken up for final hearing and disposed of at the admission stage itself.

4.The petitioner is a retired Electrician in the Thiruvalluvar Transport Corporation, having rendered 33 years of unblemished service.

5.After retirement, he joined in the Government of Tamil Nadu New Insurance Scheme, 2014 meant for pensioners and he has been continuously making contribution towards the said scheme.

6.While so, due to Acute Renal problem the petitioner was admitted on 27.06.2019 at Dr.Jayasekaran Medical Trust Hospital in Nagercoil and due to sudden collapse, he was shifted to KIMS Hospital, Trivandrum and he underwent Coronary Artery Bypass Grafting on 21.07.2019 and thereafter, discharged from the hospital. In this regard, he claimed to have incurred a sum of Rs.4,58,910/- (Rupees Four Lakhs Fifty Eight Thousand Nine Hundred and Ten Only) as medical expenses. Therefore, in order to reimburse the eligible amount as per the Medical Reimbursement Insurance Scheme, where he is a member, he has made an application to the respondents and the same, having been considered, seems to have been



returned or rejected by the 6th respondent Insurance Company dated 18.02.2020 and that has been communicated to the petitioner by the third respondent in the impugned communication dated 24.04.2020. Challenging the same, the petitioner has moved this Writ Petition.

7. Heard Mr.C.K.M.Appaji, learned counsel appearing for the petitioner, who would submit that already the case of the petitioner has been recommended by the Treasury Department. However, the Insurance Company, by taking the contract conditions, they had with the Government in the insurance scheme, seems to have rejected the same. However, if the Insurance Company has rejected the same for the reason that the treatment has been taken in a non-network hospital on that ground the Government i.e., other official respondents cannot reject the plea of the petitioner. Therefore, in this regard, the communication dated 24.04.2020 made by the third respondent is bad in law and therefore, interference of this Court is required, he contented.

8. The issue as to whether the benefits of the Medical Reimbursement Scheme for Government Servants as well as Pensioners can be extended, even though they have undergone treatment in a non-network hospital, has already been discussed and decided in a batch of Writ Petitions, i.e., W.P.(MD) Nos.13429 of 2013 etc., batch in the matter of **S.Marimuthu Vs. The Government of Tamil Nadu, represented by the Secretary, Department of Health and Family Welfare and others**, where I have 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.

(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, 70 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 from 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.

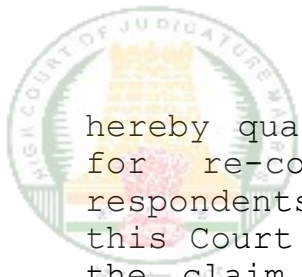
With these directions, all these writ petitions are ordered to the terms indicated above. Consequently, connected miscellaneous petitions are closed. However there shall be no order of costs."

9. In view of the above settled legal position, if at all the 6th respondent / Insurance Company has rejected the claim of the petitioner on the reason that the treatment has been taken by the petitioner in the non-network hospital, the other respondents i.e., State Government and the Subordinates and District Level Officers, including the third respondent cannot reject or refuse the said proposal of the petitioner and the same should have been considered under Medical Attendance Rules and accordingly, whatever the eligibility, for which the petitioner is entitled to get the medical reimbursement, should have been considered and paid.

10. In that view of the matter, the communication given by the third respondent dated 24.04.2020 is not liable to be sustained and therefore, the same is liable to be interfered with.

11. In the result, this Court is inclined to dispose of this Writ Petition with the following order"-

12. The impugned order of the 6th respondent dated 18.02.2020 along with communication of the 3rd respondent dated 24.04.2020 is



hereby quashed and the matter is remitted back to the respondents for re-consideration. While re-considering the same, the respondents shall take into account the directions already given by this Court in the judgment referred to above and accordingly, decide the claim of the petitioner with regard to his eligibility and quantity for getting medical reimbursement, unmindful of the fact that he has taken treatment in the non-network hospital, under Medical Attendance Rules and accordingly, pass necessary orders, fixing the quantum of the medical reimbursement payable to the petitioner and disburse the same, within a period of eight (8) weeks from the date of receipt of a copy of this order.

13. With this direction, this Writ Petition stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (writs)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

Myr

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 Additional Chief Secretary
to the Government,
State of Tamil Nadu,
Finance Department, Fort St. George,
Chennai-600 009.
2. The Directors of Pensions,
Integrated Complex of Finance Department,
Finance Department, Nandanam,
Chennai-600 035.
3. The Treasury Officer,
District Treasury, Nagercoil,
Kanyakumari District.



4.The District Collector Cum Chairman,
District Empowered Committee,
Tamil Nadu Health Insurance Scheme,
Nagercoil, Kanyakumari District.

5.The District Co-Ordinator,
MD India Health Insurance (TPA) Pvt. Ltd.,
No.84, Lousiamma Street,
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Kanyakumari District.

6.The United Insurance Co. Ltd.,
Divisional Office-VI,
5th Floor, PLA Rathna Tower,
212, Anna Salai, Chennai-600 006.

+1 CC to M/s.A. SHAJAHAN, Advocate (SR-16794[F] dated 15/09/2020)

W.P. (MD) No.11462 of 2020
11.09.2020

SJ(CO)
KB(29.10.2020) 6P 8C