



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.07.2020

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

AND

THE HONOURABLE MR.JUSTICE P.RAJAMANICKAM

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W.A. (MD)No.1373 of 2017

and

C.M.P. (MD)No.9719 of 2017

Against WP(MD).7168 of 2015

1. The Secretary to Government,
Department of School Education,
Fort St.George, Secretariat,
Chennai - 600 009.
 2. The Secretary to Government,
Department of Finance (Salaries),
Fort St.George, Secretariat,
Chennai - 600 009.
 3. The Assistant Elementary Education Officer,
Madurai North, Madurai. ...
- Appellants/Respondents

Vs.

Paul Jeyakumar

... Respondent / Writ
Petitioner

Prayer: Writ Appeal filed under Clause 15 of Letters Patent,
against the order of this Court made in W.P.(MD) No.7168 of 2015
dated 27.02.2017.

Prayer in WP(MD). 7168 of 2015 :

Writ Petition is filed under Article 226 of the
Constitution of India, praying this Court to issue a writ of
Certiorarified Mandamus caling for the records relating to the
impunged order passed by the 3rd respondent in his proceeding in
A.Thi.Mu.No.207/2015 dt. 25.03.2015 and quash the same and
consequently direct the respondents to disburse Rs.1,96,000/-
towards medical reimbursement under the New Health Insurance
scheme, 2012 and pass such further or other orders.



For Appellants : Mrs.S.Srimathy
Special Government Pleader
For Respondents : Mr.S.Bala Karthik

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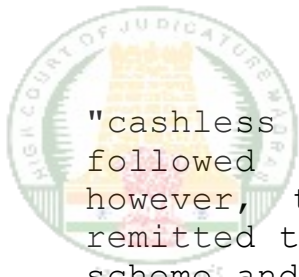
J U D G M E N T

(Judgment of the Court was delivered by **M.SATHYANARAYANAN, J.**)

The official respondents in W.P.(MD) No.7168 of 2015 are the appellants. The petitioner/first respondent was working as a Headmaster and on 03.12.2014, he developed a severe chest pain and was immediately taken to Meenakshi Mission Hospital and Research Centre, Madurai and was admitted as an inpatient. On the date of the admission of the petitioner in the said hospital, Coronary Angiogram was done and triple vessel coronary disease was diagnosed. The petitioner thereafter, on the advice of his family Doctor was admitted at G.Kuppusamy Naidu Memorial Hospital, Coimbatore as an inpatient and was given advice to undergo "Coronary By-pass Surgery". Since the procedure in the coronary surgery has to be done emergently and due to insistance in the said hospital, the wife of the petitioner had remitted a sum of Rs.1,00,000/- (Rupees One Lakh only) and Rs.96,000/- (Rupees Ninety Six Thousand only) on 13.12.2014 and 14.12.2014 respectively and the petitioner underwent the Coronary Artery Bypass Graft Surgery successfully on 15.12.2014 and was discharged on 22.12.2014.

2. It is the case of the petitioner that the procedure namely Coronary Artery Bypass Graft Surgery was one of the approved treatment under the Annexure-II of the scheme and the hospital in which he has undergone the said treatment is also accredited hospital under the Annexure-II as per the New Health Insurance Scheme and under the said impression, the petitioner had submitted an application dated 20.03.2015 to the third appellant claiming the reimbursement of Rs.1,96,000/- spent for surgery and treatment in the said hospital. However, to the shock and surprise of the first respondent/writ petitioner, the said application was rejected vide proceedings dated 25.03.2015 observing that he ought to have underwent the treatment in the approved hospital and in the absense of the same, he should bear the expenses. The petitioner challenging the legality of the said order has filed the writ petition and it was entertained.

3. The third respondent has filed a counter affidavit and took a stand that the Government of Tamil Nadu has implemented a New Health Insurance Scheme, 2012 vide G.O.Ms.No.243, Finance (Salaries) Department dated 29.06.2012 and as per the paragraph



"cashless scheme" and therefore, the petitioner should have followed the procedure contemplated in the said paragraph, however, the wife of the first respondent/writ petitioner had remitted the treatment charges to the hospital in deviation to the scheme and in the light of the observation stated in the Annexure-II of the scheme, any claim in deviation of the scheme is to be rejected and therefore, took a stand that the impugned proceedings of the third respondent are perfectly in order and prays for dismissal of the writ petition.

4. The learned Single Judge after taking note of the factual aspects had taken into consideration the order dated 27.02.2017 made in **W.P.No.2059 of 2017 [T.Balamani v. The Principal Secretary to Government, Finance (Salaries) Department, Secretariat, Chennai-9 and others]**, a reported decision in **2016 (3) CTC 394, [N.Raja v. The Government of Tamil Nadu rep. by its Secretary, Chennai and Others]**, as well as the unreported judgment dated 16.12.2016 in **W.A. (MD).No.1579 of 2016, [(MD India Healthcare Services (TPA) Ltd., rep. by the Branch Manager, Chennai, vs. K.Parameshwari and Others)]** held that in pursuant to the existence of the contract, the Insurance Company cannot be directed to pay the amount and therefore, it is the Government, which is liable to reimburse the amount and accordingly, directed the official respondents to sanction the medical expense incurred by the first respondent/writ petitioner with interest at the rate of 9% per annum without insisting on technicalities and also within an outer limit for the payment of the said amount. The official respondents challenging the legality of the order has filed this Writ Appeal.

5. Mrs.S.Srimathy, learned Special Government Pleader appearing for the appellants/official respondents would submit that in terms of New Health Insurance Scheme, 2014, vide G.O.Ms.No.462, Finance (Pension) Department, dated 27.12.2013, the claim made by the respondent/writ petitioner is to be adjudicated and in terms of the new scheme, the appellants are the sanctioning or implementing authority and the Insurance Company namely the United India Insurance Company alone is the authority for implementation and the controlling authority is the Director of Treasures and Accounts.

6. It is further contended by Mrs.S.Srimathy, learned Special Government Pleader appearing for the appellants/official respondents that the petitioner underwent the procedure in a non-network hospital, which is against the scheme contemplated in G.O.Ms.No.171, Finance (Pension) Department dated 26.06.2014 as well as the letter bearing No.34321/Pension/2015-1 dated 01.07.2015, the official respondents cannot be mulcted with the



liability to reimburse the medical expenses and prays for setting aside the order allowing the Writ Petition.

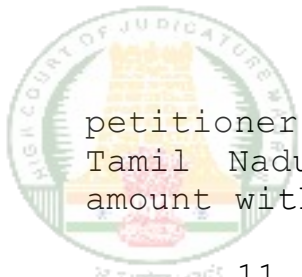
7. This Court has carefully considered the rival submissions and perused the materials placed before this Court.

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8. It is to be noted at this juncture that on 03.12.2014, the respondent/writ petitioner suddenly developed a severe chest pain and was immediately rushed to Meenakshi Mission Hospital and Research Centre, Madurai and was admitted as an inpatient and immediately Coronary Angiogram was done and triple vessel coronary disease was diagnosed. The respondent/writ petitioner going as per the advice of the family Doctor got himself admitted at G.Kuppusamy Naidu Memorial Hospital, Coimbatore as an inpatient and he was advised to undergo Coronary By-pass Surgery. It is the case of the first respondent/writ petitioner that before undergoing the emergent procedure in the form of Coronary By-pass Surgery, the hospital authorities insisted the payment of required fees and accordingly, due to the urgency and exigency, the wife of the petitioner had remitted a sum of Rs.1,00,000/- (Rupees One Lakh only) and Rs.96,000/- (Rupees Ninety Six Thousand only) on 13.12.2014 and 14.12.2014 respectively and on the next date of the remittance of the amount, the petitioner underwent the procedure of Coronary By-pass Surgery and was remained as inpatient and was discharged on 22.12.2014. Admittedly, the petitioner has suffered the serious ailment which required emergent measures and acting as per the advice of the family Doctor, he got shifted to G.Kuppusamy Naidu Memorial Hospital, Coimbatore, as an inpatient and he was successfully underwent the said procedure.

9. The fact that the petitioner suffered the chest pain and he was advised to undergo the procedure cannot be doubted at all and the petitioner merely acted as per the advise of the family Doctor and that too under emergent circumstances and therefore the admission as an inpatient and undergoing the procedure with the said hospital at Coimbatore cannot be faulted with. It also appears that the Insurance Company cannot be mulcted with the said liability and the fact remains that the first respondent/writ petitioner at the relevant point of time was working as a Head Master in an aided institution.

10. A similar issue came up for consideration before the Division Bench of this Court in a decision reported in **2019 (1) LW 858 [The Government of Tamil Nadu and Others v. K.Kumararaja & Ors,]** wherein the respondent underwent Angioplasty surgery in a hospital which is not included in the network hospitals. However, the Division Bench of this Court having taken note of the facts and circumstances has directed the fourth respondent therein to



petitioner by examining the claim made by the petitioner under the Tamil Nadu Medical Attendance Rules and disburse the eligible amount with interest at the rate of 9% per annum.

11. In the case on hand, the petitioner was working as a Head Master in an aided institution and in the light of the said fact, there cannot be any positive direction, directing the official respondents to bear the entire medical expenses incurred by the petitioner for undergoing the surgery in a non-network/accredited hospital.

12. In the result, the Writ Appeal is partly allowed. The impugned order insofar as directing the appellant/official respondents to reimburse the amount to the respondent/writ petitioner is set aside and there shall be a direction, directing the appellants to examine the claim made by the respondent/writ petitioner for medical reimbursement under the Tamil Nadu Medical Attendance Rules and disburse the eligible amount as expeditiously as possible with interest at the rate of 9% per annum from the date of claim, within a period of ten weeks from the date of receipt of a copy of this order and communicate the decision taken to the respondent/writ petitioner. No Costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

pkn/sj

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

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Fort St.George, Secretariat,
Chennai - 600 009.



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Department of Finance (Salaries),
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kmv (CO)

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