

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

LPA-625-2020 (O&M)

Date of Decision: 23.11.2020

State of Haryana and others

... Appellants

Vs.

Dharmender

... Respondent

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present : Mr. Vivek Saini, Addl. A.G. Haryana.

Mr. Neeraj Gupta, Advocate
for the respondent.

AJAY TEWARI, J. (Oral)

1. This appeal has been filed against the judgment of the learned Single Judge wherein the claim for medical reimbursement filed by the respondent was allowed in terms of the decision of the Supreme Court in the case of *Suman Rakheja v. State of Haryana and another*; reported as 2004 (13) SCC 562.

2. Learned State counsel has argued that after the decision of the Supreme Court, the State Government had made a comprehensive policy to cater various circumstances for medical reimbursement including emergency dated 06.05.2005 (as amended from time to time) and therefore, the writ petition had to be decided on the basis of that policy and learned Single Judge has wrongly not considered the policy while deciding the case.

3. Learned counsel for the respondent has, however, argued that once the Government Doctors have certified that it was a case of emergency then the imposition of this extra condition viz that the treatment should be,

in any case, be taken from any empaneled hospital is clearly arbitrary.

4. Learned State counsel has countered this by arguing that no doubt this Court would have the power to consider the every clause of the policy but in this case this was not done and the petition was allowed without any reference to the Policy.

5. Mr. Gupta, learned counsel appearing for the respondent is not in a position to deny that the policy was not considered in the impugned judgment. He, however, prays that the matter be remanded back to the learned Single Judge with permission to the respondent to lay challenge to the particular clause which as per him is arbitrary.

6. Learned State counsel states that in a petition where rules are to be challenged, the same has to be listed before Division Bench instead of Single Bench.

7. In the circumstances, the present petition is allowed and the impugned order is set aside and the petitioner is given liberty to file fresh petition to lay any challenge which he may wish.

(AJAY TEWARI)
JUDGE

(RAJESH BHARDWAJ)
JUDGE

23.11.2020
rajeev

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No