

CWP No.1207 of 2016
Date of Decision: 14.01.2020

Rajo Devi

.....Petitioner

Versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MS. JUSTICE NIRMALJIT KAURPresent: Mr. Sandeep Singal, Advocate
for the petitioner.

Mr. Gaurav Jindal, Addl. Advocate General, Haryana.

NIRMALJIT KAUR, J. (ORAL)

The present writ petition is filed for setting aside the order dated 29.01.2015 (Annexure P-8), whereby, an amount of Rs.2,48,172/- was sanctioned as reimbursement of medical expenses instead of Rs.4,93,172/- against medical expenses incurred by the petitioner.

While praying for the relief claimed, learned counsel for the petitioner submitted that the petitioner had lost hearing capacity and on diagnosis she was found suffering from B/L hearing loss. The petitioner was declared as 100% disabled person by the Medical Board at General Hospital, Rohtak. She was admitted for treatment in All India Institute of Medical Sciences, New Delhi (AIIMS). She was operated upon for "Cochlear Implant" and remained as indoor patient from 14.08.2013 to 22.08.2013. The expenses incurred came out to Rs.4,93,172/-.

However, even though, the petitioner submitted all the documents alongwith the medical bills etc., still the respondents passed an order dated 29.01.2015, whereby, only an amount of Rs.2,48,172/- was sanctioned, whereas, the full amount was Rs.4,93,172/-. The only reason for

denying the complete reimbursement was that the same was sanctioned in terms of advice received vide letter dated 14/19.01.2015 from the Health Department, Haryana, vide which, even the amount of Rs.2,48,172/- was released only after exercising the relaxation of some policy.

Written statement has been filed. As per the written statement, the Health Department, Haryana accorded its consent by giving relaxation in rules to pay 50% of total amount of Rs.5,35,000/- as special case with condition that this case shall not be treated as an example in future.

After hearing learned counsel for the parties and going through the various instructions as also the reply, this Court finds that the very action of the respondents in denying the 100% reimbursement and granting only 50% on an imaginary reasoning, which is totally contrary and in violation of their own instructions, cannot be sustained. As per policy dated 06.05.2005 (Annexure P-4), which is a review of reimbursement policy, vide which, employees/pensioners of the Department of the State Government are entitled to full reimbursement, in case, the treatment is taken from a Government Hospital and the name of AIIMS, New Delhi has been specifically mentioned in the same. Relevant feature of the said policy reads as under:-

“The salient features of the new policy are as under:-

1. It will be governed by the Punjab Medical Attendance Rules, 1940 and regulations/instructions issued from time to time by the State Government.
2. Government Hospitals:-
 - (i) Full reimbursement will be allowed for treatment in all the Government Hospitals in the State of Haryana, U.T. Chandigarh (I.E. PGI, Chandigarh, General Hospital,

Sector-16, Medical College, Sector-32 and Dispensaries etc.) and AIIMS, New Delhi.

(ii) Full reimbursement will be allowed for treatment in all the Government Hospitals located outside the State of Haryana subject to the condition that the claimant would produce a certificate from the Medical Superintendent/ Head of that Institution declaring it as a Government run hospital institution.

(iii) Full reimbursement will be allowed for treatment in all the Government Medical Colleges located in the Country subject to the condition that the claimant would produce a certificate duly signed by the Medical Superintendent of that institution declaring that it is a Government run Medical College/Hospital.

iv) Lab Tests/Investigations.

If the Lab Tests/Investigations for Indoor/Chronic disease patients are not available in the Government Hospitals in that State of Haryana and outside the State of Haryana, then the reimbursement will be allowed equal to PGI, Chandigarh rates after obtaining the non-availability certificate. The instructions issued by the State Government vide letter No.2/73/87-1 HBIII 23.5.1988 stands superseded.”

No reason at all is forthcoming as to why the full reimbursement was denied. The argument expressed in the written statement that 50% too is being granted as special case has no basis. The petitioner was suffering deafness of both ears. The treatment was found to be essential and indispensable in nature. There is nothing on record to show that any cheaper substitute was available. The treatment was taken from a Government Hospital i.e. AIIMS, New Delhi. A patient being treated by the doctor, has no choice but to follow the advice of the doctor. Therefore, the

petitioner was duly treated, operated and underwent an implant, the same being found to be essential and indispensable treatment. Any denial of the full reimbursement is against the very policy and rules applicable to the petitioner. The refusal is nothing but discriminatory and on account of some personal opinion which cannot be replaced by the expert opinion/treatment given by a doctor of a government hospital.

Accordingly, the present writ petition is allowed and the respondents are directed to pay the balance amount of Rs.2,45,000/- to the petitioner alongwith interest @ 6% per annum from the date it was due.

This Court has just stopped itself from directing the recovery of the 6% interest from the concerned officer, who may be responsible for illegally denying the full reimbursement.

14.01.2020
sandeep

(NIRMALJIT KAUR)
JUDGE

Whether Speaking/Reasoned	:	Yes/No
Whether Reportable	:	Yes/No