123 IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.17694 of 2017
Date of Decision: 4.3.2020

Maninder Singh Patwari .....Petitioner

Versus

State of Punjab and others

.....Respondents

CWP No.23161 of 2017

Anant Singh .....Petitioner

Versus

State of Punjab and others

.....Respondents

CWP No.1465 of 2018

Avtar Singh .....Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MS. JUSTICE NIRMALJIT KAUR

Present: Mr. Sarabjit Singh, Advocate, for the petitioner
in CWP-17694-2017.
Mr. H.S. Saini, Advocate, for the petitioner
in CWP-23161-2017.
Mr. Harvinder Singh Maan, Advocate, for the petitioner
in CWP-1465-2018.

Ms. Simran Grewal, Assistant Advocate General, Punjab.

Mr. Ankur Sharma, Advocate, for respondent No.3
in CWP-17694-2017.

Mr. Ram Avtar, Advocate, for respondents No.6 and 9
in CWP-17694-2017,
for respondent No.4 in CWP-1465-2018 and
for respondent No.6 in CWP-23161-2017.

NIRMALJIT KAUR, J. (Oral)

The aforesaid writ petitions shall stand decided by this common

order as the issue involved is same. For convenience, the facts are taken from CWP-17694-2017.

CWP-17694-2017 is filed for setting aside the order dated 7.4.2017 issued by the India Health Systems Corporation-respondent No.6, vide which, the claim of the petitioner for medical reimbursement has been rejected on the ground that treatment availed by the beneficiary shall be on the reimbursement basis, subject to the submission of the claim to TPA within 30 days from the date of the discharge from the hospital as per guidelines under the Punjab Government employee scheme tender Clause 11.6.

Thus, the only reason for rejecting the claim of the petitioner is that the bills were not submitted within 30 days.

It is not disputed that the petitioner was suffering from kidney ailment. It is also not disputed that the treatment was genuine. Even the bills are not disputed. It is also not disputed that the respondents are liable to pay. Still, the case of the petitioner is rejected by saying that as per the terms and conditions of the contract, the bills have to be submitted within 30 days.

As early as on 19.9.2017 i.e. approximately 2½ years ago, while issuing notice of motion, the following order was passed:-

> "Inter-alia, learned counsel for the petitioner contends that the medical reimbursement claim of the petitioner has been declined simply on the ground that medical bills have not been submitted within prescribed period of 30 days from the date of discharge from the hospital.
>
> Undoubtedly, as per the averments made in the instant petition, petitioner has been suffering from kidney ailment and could not submit medical bills within prescribed period of 30

days. However, rejection of medical bills on the ground of prescribed limitation of 30 days is itself no ground to decline the relief in view of the judgment rendered by the Division Bench of this Court in case of **Baljinder Kaur vs. State of Punjab and ors., 2008(2) SCT 820** as well as judgment passed by this Court in case **Rajwant Kaur vs. State of Punjab, 2001 (2) SCT, 1035.**

Notice of motion.

At the asking of the Court, Mr. Manoj Bajaj, Additional Advocate General, Punjab accepts the notice on behalf of the respondents State. Copy of petition be supplied to learned State counsel during the course of the day.

List on 13.11.2017.

Meanwhile, reply, if any, be filed before the Registry with an advance copy given to opposite counsel."

This order was in the knowledge of the respondents. In spite of the same, the respondents have adopted stubborn attitude and instead of paying the amount towards medical reimbursement, the stand that the bills have not been submitted within 30 days was repeated in the reply and similar stand was taken on 6.2.2020 also. Accordingly, the matter was adjourned for today on request of learned counsel for respondents No.6 and 9 to seek instructions with respect to the payment forthwith alongwith interest @ 9% per annum.

Today, learned counsel for respondents No.6 and 9 has once again washed off his hands on the same ground that they are bound by the Clause 11.6 of the employees scheme, although, as per the Annexure P-4 itself, they are simply guidelines and not mandatory. Hence, the respondents

are not supposed to reject the claim simply on the said ground, in case, the treatment has been taken and they have been paid premium for that.

The issue of delay in submitting the bills is covered by the aforesaid judgments rendered in the cases of Baljinder Kaur (supra) and Rajwant Kaur (supra), wherein it was held as under:-

> "5. It is a matter of pity much less on the part of the State Government when they are playing with the sentiments of its own employee and his family members. Irrational instructions and polices of the Government to deprive the fruits of medical reimbursement/disability pension must be struck down. In my opinion, the instructions dated 6.7.1971 are irrational, illogical and oppressive and stands struck down. The writ of petitioner also cannot be defeated on the ground of delay and laches. At the most the petitioner can be deprived of the interest part of the prayer, the reimbursement of medical bills is not an act of bounty or charily on the part of the State Government or Union of India. An employee is entitled to the medical reimbursement as per the rules and such claim should be sympathetically viewed by the dealing Assistant and Officers. Unnecessary objections raising the miseries of the claimant should be avoided. By this attitude alone the images of the government can improve. Negative approach should be curtailed and cured in such like matters."

Even on facts, this Court may note that the petitioner had duly applied for reimbursement to the the Deputy Commissioner vide Annexure P-2 dated 22.9.2016 alongwith the original bills. The Deputy Commissioner instead of forwarding the same to respondent No.6 or respondent No.9, returned the bills his vide letter dated 21.3.2017 with a direction to send the claim to the Oriental Insurance Compnay. There is no explanation for delay on the side of the Deputy Commissioner in dispatching the same back to the

petitioner, leave alone, forwarding the same either to respondent No.6 or respondent No.9.

From the above, it is evident that instead of reimbursing the medical bills, the petitioners are being made to run from one authority to another. As per the Department, the employee has to apply directly Oriental Insurance Company as per the procedure. There is nothing to show that the copy of the Insurance Scheme was ever circulated or brought to the notice of their respective employees or they were made aware of the procedure for claiming the medical reimbursement. Even otherwise, the petitioner being an employee of the respondent-department, it was incumbent upon the respondent-department to forward the medical claim to respondents No.6 and 9 instead of reimbursing the bills. Thus, there is negligence on the part of the respondent-State for not forwarding the same to the Oriental Insurance Company in case the bills had been received by the Department. Further, it is actually the duty of the respondent-State to ensure that medical bills of their employees are reimbursed taking into account that the agreement is between the State and the Oriental Insurance Company. The premium is also paid by the State. Therefore, it is for the respondent-State to procure the medical reimbursement from the Oriental Insurance Company and to deposit the amount in the accounts of their employees. In case of any violation of the policy, it is the State being the employer as well as the signatory to the agreement, who should contest on behalf of their employees. Further, respondents No.6 and 9 too on their part cannot reject the medical reimbursement only on the ground of delay i.e. beyond 30 days without examining the problem/difficulty of an employee, who is recovering

or may be seeking reimbursement on account of his family member covered under the scheme and who is either trying to cope up with his or her ailment or may be even death in certain cases. In the present case, it is not denied that the respondent-State has already paid the premium. Therefore, the respondents No.6 and 9 under no circumstances can deny the medical reimbursement on the ground of delay. The medical reimbursement is the right of the petitioner, which should have been granted immediately on receipt of the medical bills.

Accordingly, the writ petitions are allowed. The Oriental Insurance Company shall reimburse the medical bills to the petitioners as per the policy ignoring the already delay, if any, alongwith interest @ 9% per annum from the date the bills received in the office of the Deputy Commissioner till it is paid within a period of one month from the receipt of certified copy of this order. In case, the same is not paid within the period as mentioned above, the Insurance Company shall be liable to pay interest @ 12% per annum from the expiry of the period of one month. Further, in case the Oriental Insurance Company does not make the payment as directed, the State shall be held liable to make the payment towards the medical bills and recover the same subsequently from the Oriental Insurance Company.

(NIRMALJIT KAUR)
JUDGE

4.3.2020
sharmila

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