

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

214

CWP-18972-2017

Date of Decision : February 11, 2020

GAJ RAJ SINGH

.....Petitioner

VERSUS

STATE OF HARYANA & ORS

.....Respondents

CORAM: HON'BLE MS. JUSTICE NIRMALJIT KAUR

Present : Mr. Anoop Kumar Yadav, Advocate
for the petitioner.

Mr. Pankaj Mulwani, DAG, Haryana.

NIRMALJIT KAUR, J.

The prayer in the present writ petition is for grant of medical reimbursement amounting to Rs.1,07,268/- vide essentiality certificate issued by Paras Hospital, Gurgaon and Rs.7,20,682/- vide essentiality certificate issued by Medanta Hospital, Gurgaon which has been incurred by the petitioner for treatment of his wife Kamla Devi in emergency.

The wife of the petitioner was suffering from coronary artery disease. She remained admitted as indoor patient in Paras Hospital initially from 21.1.2015 till 24.1.2015. Her condition worsened. In view of her serious condition, the Doctors of Paras Hospital referred the wife of the petitioner to Medanta Hospital for better treatment. She remained admitted in emergency ward in Medanta Hospital from 25.1.2015 to 10.2.2015 with the advice for follow up treatment. During her treatment at Paras Hospital, the petitioner incurred Rs.1,07,268/-. In the Medanta Hospital, the petitioner incurred Rs.7,20,682.7/-. Rs. 10,095/- has been

spent on the follow up treatment. The petitioner has been paid only Rs.73,162/- towards treatment taken in Paras Hospital, Gurgaon which is admittedly empanelled Hospital by the Haryana Government. However, only Rs.4,60,322/- has been paid towards the total amount incurred by the petitioner for the treatment of his wife at Medanta Hospital. Thus, the balance amount of Rs.2,63,070/- has still not been paid. Even Rs.10,095/- towards the follow up treatment has not been paid.

Reply has been filed. As per the reply, the Government vide memo No.2/26/2013-1 H.B.-III dated 24.6.2013 empanelled some private hospital including Paras Hospital, C-I, Sushant Lok, sector 43, Phase-I, Gurugram for two years for treatment of Haryana Government employees/pensioners/family pensioners at PGI Rates +75% of the balance amount. A copy of instruction dated 24.6.2013 is placed as Annexure R-1. The medical reimbursement bill amount to Rs.1,07,268/- submitted by the petitioner was processed as per his admissibility and an amount of Rs.73,162/- at PGI+75% of the balance amount was paid to the petitioner well in time. The Government vide memo No.2/26/2013 1H.B.-III dated 20.11.2013 empanelled Medanta the Medicity Global Health Pvt. Ltd. Sector 38, Gurgaon for the period from 02.11.2013 to 02.05.2014 for treatment of Haryana Government employees/pensioners/family pensioners at PGI Rates+75% of the balance amount, subject to the condition that they will submit their consent for package rates within this period, otherwise their empanelment will be cancelled after this period automatically. A copy of instruction

dated 20.11.2013 is placed as Annexure R-2. The petitioner submitted 2nd medical reimbursement bill of Rs.7,20,682/- on account of treatment taken by his wife from 24.01.2015 to 10.02.2015, but the Medanta Hospital, Gurgaon was not stands on the panel of Government during the above said period. Thereafter, the Government vide instruction No.2/276/2012-IHB-III dated 13.08.2015 has continued the empanelment of private hospitals including the Medanta the Medicity Hospital, Gurgaon till the issuance of new empanelment policy. A copy of instruction dated 13.08.2015 is placed as Annexure R-3. In pursuance to above said instruction dated 13.08.2015, an amount of Rs.4,57,612/- at package rates were sanctioned in favour of the petitioner vide office order No. 202-04/4EE-II/2016 dated 12.01.2016 and the payment was also made to the petitioner accordingly.

Heard.

A perusal of Annexure R-1 i.e. instructions dated 24.6.2013 relied on by the respondents shows that the Medanta Hospital was empanelled for six months subject to the condition that the said hospital shall give consent for package rates within this period. The said period of six months was further extended vide Annexure R-2 dated 20.11.2013 uptill 2.5.2014. Thereafter vide instructions dated 13.8.2015 Annexure R-3, the Medanta Hospital was duly empanelled. Thus, there is no mention in the written statement as to whether the Medanta Hospital had submitted their consent for package rates or not and what happened for the period between 2.5.2014 to 13.8.2015. There is not a word mentioned

in the written statement qua this period. Thus, the automatic presumption is that the empanelment of the Medanta Hospital continued beyond 6.5.2014 till the passing of the order dated 13.8.2015 Annexure R-3 continuing the empanelment. This fact is further established from Annexure R-3 itself wherein the subject is stated to be as under:-

Sub: Continuation of Empanelment of Private Hospitals till the issuance of New Empanelment policy regarding.

Sir/Madam

I have been directed to invite your attention to the subject mention above and to state that the Govt. has decided the continuation of empanelment of Private Hospitals till the issuance of New Empanelment Policy. The Hospitals shall follow the instructions of Empanelment and that of package/implant rates notified by the State Govt. from time to time for providing treatment to the Haryana Govt. Employees/Pensioners and their dependents in the approved private hospitals. These instructions shall be applicable till the issuance of new policy. The reimbursement will be allowed on the same terms and conditions and notified package rates and implants rates as explained in the respective empanelment order.

Thus, the only conclusion that can be drawn from the above fact is that the Medanta Hospital had duly submitted their consent for their package and, therefore, empanelment continued. The name of the Medanta Hospital is at serial No.56 of Annexure R-3 showing the applicability of PGI Rates + 75% of the balance amount. Even if for the sake of arguments, it was held that there was no agreement with the Medanta Hospital and the respondent-State for the aforesaid period, there

is no reason to discriminate those patients or employees who are admitted in the said hospital during the period from 24.1.2015 to 10.2.2015. Moreover, in the present case, the wife of the petitioner was admitted in the Medanta Hospital in emergency on the same day when she was discharged from Paras Hospital. It has also been held by the various judgments as well as by this Court in the case of **Rajinder Singh Vs. State of Haryana and others**, CWP No.8197 of 2016, decided on 13.1.2020 that in case an employee is admitted in the emergency even though in an hospital which is not empanelled, then too is entitled to get reimbursed as per the PGI rates + 75%. Here, the emergency is not disputed.

In these circumstances, the present writ petition is allowed. The respondents shall calculate the amount to be paid to the petitioner as per PGI/AIIMS rates + 75% for the period the wife of the petitioner was admitted in Medanta Hospital and thereafter the deficit amount after making calculation shall be paid to the petitioner forthwith. The amount towards the follow up treatment be also paid accordingly.

February 11, 2020
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(NIRMALJIT KAUR)
JUDGE

Whether speaking/reasoned.	:	Yes/No
Whether Reportable.	:	Yes/No