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

CWP No.28821 of 2017 (O&M)
Date of Decision: 15.1.2020

Pushpa Devi

.....Petitioner

Versus

State of Punjab and others ....Respondents

CORAM: HON'BLE MS. JUSTICE NIRMALJIT KAUR

Present: Mr. Munish Garg, Advocate, for the petitioner.

Mr. Luvinder Sofat, Assistant Advocate General, Punjab.

Ms. Amrita Singh, Advocate, for respondent No.3.

Mr. Ram Avtar, Advocate, for respondent No.4.

NIRMALJIT KAUR, J. (ORAL)

Prayer in the present petition is for disbursement of medical claim of the petitioner being the wife of deceased-Chaman Lal Gupta, who was working as Stenographer in the office of District and Sessions Judge, Sangrur.

The State Government, Department of Health and Family Welfare Punjab launched the Punjab Government Employees and Pensioners Health Insurance Scheme vide its notification dated 20.10.2015. A copy of the said scheme is being annexed herewith as Annexure R-1. The said scheme was made applicable to all the Government serving employees (whether covered under old or new pension scheme) and pensioners on complusory basis. However, the scheme was optional for all India Service Officers, serving and Ex-MLAs serving and Ex-judicial Officers including Judges of Punjab and Haryana High Court. The premium of the main members as well as dependent(s) (as defined in the State Services (Medical

Attendant Rules) [CS(MA)] Rules, 1940) was paid by the State Government. The claim for medical reimbursement for the employees was to be settled by the Insurance Company i.e. Oriental Insurance Company. The policy started from 1.1.2016 ended on 31.12.2016.

That as per conditions of notification dated 20.10.2015 the enrollment for the scheme were started on 31.10.2015 and was to be completed by 31.12.2015. Since, all the employees and pensioners could not register within this period, representations from various employee organizations were received for extending the period of enrollment. Accordingly, the second phase of enrollment was started from 1.1.2016 and the registrations were done uptill 1.2.2016. The State Government has paid ₹ 53 crores premium on the basis of the number of employees/pensioners and dependent loading. The scheme was implemented through 679 Government and Private Hospitals.

As per the Government of Punjab vide letter dated 28.12.2016, if any employee/pensioner enrolled under this Scheme and is admitted in a registered hospital on 31.12.2016 or before it, then the reimbursement of the bill under the cashless scheme will be done by the Oriental Insurance Company. Admittedly, the petitioner did not enroll herself under the said scheme. The petitioner did not enroll as she did not hear about the scheme till 5.6.2017. The petitioner was informed by the office of the District and Sessions Judge, Sangrur vide letter dated 5.6.2017 that Government of Punjab, Department of Health and Family Welfare vide notification date 20.10.2015 had introduced Cashless Scheme Punjab Government Employees and Pensioners Health Insurance Scheme (for short, 'PGEPHIS') covering new and old schemes on compulsory basis for which they were required to register themselves but by that time, it was too late and last date had lapsed.

While praying for allowing the present writ petition, learned counsel for the petitioner submitted that the petitioner, who is the widow was never aware of the said scheme nor any such scheme was communicated to her. Reply has been filed on behalf of respondent No.2-State stating therein that the scheme was duly advertised by Department by way of public channels i.e. newsprint and electronic medium.

As per the reply filed by respondent No.3, it is admitted that the said scheme was never communicated to the petitioner but submitted nevertheless that in case of the pensioners, the scheme was widely published by sources like advertisement in local newspaper/cable network as well as notification of the scheme, which was made available on the website. In fact, the date of enrollement of the employee/pensioner and other optional members was extended upto 31.12.2016 under the Punjab Government Employees and Pensioners Health Insurance Scheme.

Before proceeding further, it would be important to reproduce the order dated 19.11.2019 passed by the Co-ordinate Bench, which reads as under:-

> "The Sessions Division would file an affidavit explaining whether the petitioner, a widow of an employee of the Sessions Division, Sangrur, who expired in 2012, was informed in writing or by a recorded communication through telephone/mobile bringing to her notice that the last date of enrollment of the employees, pensioners and others optional members had been extended upto 30.06.2016 under the Punjab Govt. Employees & Pensioners Health Insurance Scheme (PGEPHIS). That notification of the Punjab Government issued

by the Department of Health and Family Welfare is dated 20.05.2016 (R-4/2). It was notified that the beneficiaries who could not get enrolled under the Scheme or upto the period they get enrolled, they can enroll now and will be entitled for medical treatment reimbursement as per existing State Services (Medical Attendant Rules) [CS(MA)] Rules, 1940 as amended from time to time.

Ms. Simran Grewal, learned State counsel has produced an order dated 18.11.2019 passed by the Managing Director of the Punjab Health Systems Corporation, SAS Nagar Mohali which is taken on record as Mark 'A'. It is treated to be authentic as produced by the Law Officer. Vide this order, the case of the petitioner has been rejected citing that part of the notification which elucidates that *"no fresh enrollment of the serving employee and pensioner shall be allowed after the expiry of the enrollment period except for exceptional circumstances"*. As far as the State is concerned, the scheme ended on 31.12.2016 and after that same is over.

It is argued by the Insurance Company that it cannot be made liable and is absolved by virtue of the notification. It was not the duty of the Insurance Company to inform the petitioner. This position is accepted as correct.

The question which arises is what was the liability of the State and the Sessions Division. If the case is that the widow was informed of the notification and the deadline, then she will be deemed to have waived her rights under the 1940 Rules. But if it is not the case, then for further consideration, the matter will be heard on the point on the next date of hearing.

Adjourned to 02.12.2019."

Thus, the liability, if at all, which remains to be seen is only of the State and the Sessions Division. As noted above, the petitioner was never informed about the notification and the deadline. Although, it is not disputed by learned counsel for the petitioner that the said notification was duly published and was available on the website but has very fairly admitted that although the petitioner may not be liable to get the reimbursement from the Insurance Company under the Punjab Government Employees and Pensioners Health Insurance Scheme but is nevertheless entitled to the same under the State Services (Medical Attendant Rules) [CS(MA] Rules, 1940 as amended from time to time.

Learned counsel for the respondents-State is not in a position to dispute the same in view of the notification dated 20.5.2016 placed on record as Annexure-R4/2 issued by the Government of Punjab, Department of Health and Family Welfare, vide which, it has been specifically stated that the beneficiaries who do not get enrolled under this Scheme will be entitled for medical treatment reimbursement as per existing State Services (Medical Attendant Rules) [CS(MA] Rules, 1940 as amended from time to time. The said notification is reproduced as under:-

> "The Government of Punjab is pleased to extend the enrollment of employees, pensioners and other optional members up to 30.6.2016 under PGEPHIS. This will be last opportunity for them for getting enrolled under the scheme. The beneficiaries who could not get enrolled under the scheme or up to the period they get enrolled now will be entitled for medical treatment reimbursement as per existing State Services (Medical Attendant Rules) [CS(MA] Rules, 1940 as amended from time to time through Treasury route. Para-8 of the earlier notification No.21/28/12-5HB/268/, dated 20.10.2015 will stand amended to this extent."

In view of the above, the present writ petition is disposed of with direction to the respondent-State to grant medical reimbursement as per the State Services (Medical Attendant Rules) [CS(MA] Rules, 1940 as amended from time to time.

Needful be done within a period of four weeks from today and the amount so calculated as per the said Rules 1940, be paid to the petitioner within two weeks thereafter alongwith interest @ 6% per annum from the date she is found entitled. In case, the amount so calculated is not disbursed to the petitioner within the stipulated period as mentioned above, the same shall be paid alongwith interest @ 12% per annum from the date of the expiry of the aforesaid stipulated period.

At this stage, learned State counsel pointed out that as per para No.8 of the notification dated 20.10.2015 (Annexure R-2/1), no fresh enrollment of the serving employee shall be allowed after the expiry of the enrollment period except for any 'exceptional circumstance'. In the present case, as held above, the petitioner is the widow of the deceased and had no means to learn or know about the notification and nor the same was brought to her notice, therefore, prime facie, it would amount to an exceptional circumstance.

Accordingly, the State shall consider the same and if it comes to a conclusion that the same is an exceptional circumstance, the State will be at liberty to recover the amount so paid by the State to the petitioner from the Insurance Company in accordance with law. However, the Insurance Company will be given the due opportunity to defend itself and challenge the same, if so required, in accordance with law.

(NIRMALJIT KAUR)
JUDGE

15.1.2020
sharmila

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