

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

L.P.A. No.55 of 2017 (O&M) in
Civil Writ Petition No.9839 of 2015
Reserved on : October 29, 2019
Date of decision: February 17, 2020

Gurcharan Singh

...Appellant

Versus

State of Haryana and others

...Respondents

**CORAM: HON'BLE MR. JUSTICE RAJIV SHARMA,
HON'BLE MR. JUSTICE HARINDER SINGH SIDHU**

Present: Mr.Narender Pal Bhardwaj, Advocate
for the appellant.

Mr.Deepak Balyan, Addl.AG, Haryana.

HARINDER SINGH SIDHU, J.

1. This Letters Patent Appeal has been filed against the judgment dated 12.12.2016 in CWP No.9839 of 2015 titled 'Gurcharan Singh vs. State of Haryana and others' whereby the writ petition filed by the appellant was dismissed.

2. The appellant had filed the writ petition seeking directions to the respondents to reimburse the medical expenses amounting to Rs.50,464.31.

3. The appellant is a retired Audit Officer from the Local Audit Department, Government of Haryana. He was in receipt of Fixed Medical

Allowance of Rs.500/- per month. He got his blood test conducted from two private Laboratories and the results Annexure P-2 and P-3 dated 30.07.2014 and 31.07.2014 respectively, indicated that he was Hepatitis-C positive. It was recommended that he either go to Fortis Hospital, Mohali or PGI Chandigarh. He contacted Civil Hospital Ambala on 08.08.2014 for obtaining 'Chronic Disease Certificate'. The doctors at Civil Hospital, Ambala advised him to get his investigation done from a Government approved hospital and then, appear before the Medical Board constituted by the Civil Surgeon for obtaining the certificate. The petitioner then visited Fortis Hospital, Mohali which is a Government Approved Hospital. He deposited Rs.50,464.31 for conducting certain tests. The final report of the tests was received on 25.08.2104 wherein Hepatitis C was confirmed. That very day, he submitted an application before the Director, Local Audit Department stating that he is suffering from Hepatitis-C, which is a chronic disease. He has been receiving treatment from Fortis Hospital, Mohali since 11.08.2014. He requested that his fixed medical allowance @ Rs.500/- per month be stopped from 1.8.2014 and his option be changed to open medical reimbursement . Recovery, if any, be made from his pension.

4. The appellant appeared before the Medical Board, constituted by the Civil Surgeon on 05.09.2014 and he was issued a certificate that he was suffering from Hepatitis C which is a Chronic disease. The Director, Local Audit Department vide letter dated 14.10.2014 allowed the change of option to claim Open Chronic Medical Reimbursement instead of Fixed Medical Allowance w.e.f. 5.9.2014. The claim of the appellant for

reimbursement of the medical bill of Rs.50,464.31 was, however, declined vide letter dated 07.08.2015 on the ground that the certificate of chronic disease was issued to him on 05.09.2014 and he was eligible to change the option from that day. Expenditure incurred before the issue of such certificate by the Medical Board, was not reimbursable under the Government Instructions dated 11.09.1992.

5. Aggrieved, the appellant filed the writ petition, which has been dismissed. Hence this appeal.

6. It is not denied that the Haryana Government employees are entitled to full payment/ reimbursement of expenses incurred on the treatment of chronic disease as outdoor/ indoor patients. The only ground for denial of reimbursement was that expenditure incurred before the issue of chronic disease certificate cannot be reimbursed as per the instructions dated 11.09.1992.

7. The said ground does not appear to be justified particularly in the context of the present case.

8. It cannot be denied that correct detection and diagnosis of an ailment is the first important component of any successful treatment. Correct diagnosis often requires one or more diagnostic procedures such as medical tests and investigations which precede the detection. The proportion of expenses on diagnosis to the total medical cost of treatment is often not inconsiderable. Necessarily the certification from the Medical Board regarding the chronic disease follows the detection of the ailment. Expenses incurred on the investigation, which are essential for diagnosis,

thus have to be treated as an integral part of cost of the treatment.

9. This issue was examined in **Santosh Phogat v. State of Haryana, 1999(4) SCT 478 (P&H)** in the context of a test got done from AIIMS Delhi by a patient who was undergoing treatment in PGI Chandigarh as an indoor patient. The objection of the State of Haryana was that the test having been undertaken as an outdoor patient was not reimbursable. Rejecting this contention it was held that though the patient undertook the test at AIIMS as an outdoor patient but it was an essential investigatory procedure for a proper analysis of her malady and was therefore, an integral and inseparable part of her treatment received in PGI as an indoor patient. She was held to be entitled to reimbursement for the same. It was observed as under:

“6. The facts are not in dispute. The petitioner, an employee of the PGI was referred for the MRI Test to the AIIMS by the attending doctors. She was also permitted to undergo this test within one month from 19th June, 1997 and was discharged from the PGI for that purpose. Admittedly, she underwent that test on 2nd July, 1997. It is true that the Government Instructions, referred to in the reply (copy of which have been produced in Court today by Mr. Jain), do show that an employee receiving a fixed medical allowance, would not be allowed reimbursement of medical expenses incurred as an outdoor patient. The Instructions, however, have to be construed in a manner which would enhance their purpose rather than create an anomalous situation. It cannot be disputed that the MRI Test was an essential investigatory procedure for a proper analysis of the petitioner's malady

which would lead to her proper treatment. It was, therefore, an integral and inseparable part of the treatment that the petitioner had received in the PGI as an indoor patient. Moreover, it is to be borne in mind that the petitioner had been recommended to the AIIMS, New Delhi, by the PGI itself because the MRI test was not available in the latter Institution. It also stands admitted by the respondents that had the petitioner been admitted to the AIIMS on the 2nd July, 1997 and had undertaken the test as an indoor patient, she would have been allowed reimbursement of her claim. To my mind, this stand is somewhat anomalous and illogical. The purpose behind the instructions apparently is to decrease the burden on the State exchequer. This intention would be completely nullified as an employee would make all efforts to get admission to a hospital for even minor problems which would burden the State even more. Moreover, the issue even otherwise stands concluded by a Single Bench decision of this Court in Satpal Kaur v. State of Punjab, CWP No.16622 of 1997 decided on 19.5.1999, wherein, it has been held that if the outdoor treatment is an integral part and connected with the indoor treatment, the expenses incurred on the former are reimbursable.

7. This petition is accordingly allowed, the order Annexure P-6 is quashed and a direction is issued to the respondents to make the payment to the petitioner on the assumption that the test that she has undergone in the AIIMS New Delhi, was reimbursable as indoor treatment. No costs.”

10. In the present case, initially the appellant got his tests conducted from private laboratories on 30.07.2014 and 31.07.2014 which indicated that he was Hepatitis C positive. He then contacted Civil

Hospital, Ambala. He was advised to get investigation done from Fortis Hospital, Mohali or PGI, Chandigarh. He deposited Rs.50,464.31 at Fortis Hospital for conducting tests. The final report of the tests was received on 25.08.2014, wherein, Hepatitis-C was confirmed. That very day, he submitted application before the Director, Local Audit Department requesting for change of option. On 05.09.2014, the Medical Board certified that he was suffering from a chronic disease. The Director, Local Audit Department vide letter dated 14.10.2014 allowed the change of option to claim Open Chronic Medical Reimbursement instead of Fixed Medical Allowance w.e.f. 5.9.2014.

11. It has been explicitly stated in the communication dated 31.10.2014, from the State Public Information Officer-cum-Deputy Civil Surgeon (Medical) Ambala, to the appellant that chronic disease certificate can be issued after confirmatory test/ diagnosis of the chronic disease from a recognized hospital after confirmation by the concerned specialist of the Government Hospital at District Level. Fortis Hospital, Mohali is such a recognized Hospital. It was the investigation conducted at Fortis Hospital, Mohali that confirmed Hepatitis C, which led to the certification of the appellant as suffering from said chronic disease. Thus, the expenses incurred on these tests/ investigation have to be treated as an integral part of the cost of treatment and are liable to be reimbursed, though these expenses have been incurred prior to the certification of the appellant as a patient suffering from chronic disease. Denying reimbursement for such tests/ investigations would defeat the very objective of the Policy/Instructions

whereby, patients are entitled to full payment/ reimbursement of expenses incurred on the treatment of chronic disease as outdoor/ indoor patients.

12. Accordingly, this appeal is allowed. The judgment of the Ld. Single Judge is set aside. The respondents are directed to reimburse the appellant for expense/ costs of the investigation/ tests undergone at Fortis Hospital, Mohali after due verification.

(RAJIV SHARMA)
JUDGE

(HARINDER SINGH SIDHU)
JUDGE

February 17, 2020

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Whether Speaking / Reasoned	Yes
Whether Reportable	Yes / No