IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.07.2021

CORAM:

THE HONOURABLE Mr. JUSTICE S.S.SUNDAR

W.P.No.15547 of 2021
and W.M.P.No.16461 of 2021

Thangavelu .. Petitioner

Versus

1. The Government of Tamil Nadu,
   Rep. by its Secretary,
   Finance (Salaries) Department,
   Fort St. George,
   Chennai - 600 009.

2. The Government of Tamil Nadu,
   Rep. by its Secretary,
   Transport Department,
   Fort St. George,
   Chennai - 600 009.

3. The Director,
   Office of the Director of Treasuries and Accounts,
   2nd Floor, Panagal Building,
   Saidapet, Chennai - 600 015.

4. The Commissioner,
   Transport Department,
   Chepauk, Chennai.

5. The District Collector,
   Tiruppur District.

6. The Joint Director,
   Medical and Rural Health Service,
   Government Hospital Head Quarters, Tiruppur.

7. The Managing Director,
   The United India Insurance Co. Ltd.,
   PLA Rathna Towers, 5th Floor,
   212 Anna Salai, Chennai - 600 006.

8. The Chairman,
   Kovai Medical Centre Hospital (KMCH)
   Coimbatore.

9. Endolite India Limited,
9th, 2nd Avenue,
Sivananda Colony, Tatabad,
Coimbatore - 641 012. .. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus directing the respondent 1 to 7 to reimburse Rs.20,78,979 along with appropriate interest for the medical expenses incurred by the petitioner under Government of Tamil Nadu, New Health Insurance Scheme within a time frame as Fixed by this Court by considering the petitioner's representation dated 30.06.2021.

For Petitioners : Mr.D.R.Arun Kumar

For Respondents : Mr.C.Kathiravan
Government Advocate for R1 to R6

O R D E R

This Writ Petition has been filed for issuance of a Writ of Mandamus directing the respondents 1 to 7 to reimburse Rs.20,78,979/- along with appropriate interest for the medical expenses incurred by the petitioner under Government of Tamil Nadu, New Health Insurance Scheme within a time frame as may be fixed by this Court by considering the petitioner's representation dated 30.06.2021.

2.The petitioner joined service as a Motor Vehicle Inspector in the Transport Department on 10.01.1994 and subsequently, on 20.06.2009, was promoted to the post of Regional Transport Officer and retired from service on 31.01.2020 as Regional Transport Officer, Dharapuram. It is stated by the petitioner that, while he was in service, he went for inspection of schools as per the direction of this Court, pursuant to the Kumbakonam School Tragedy. It is also the case of the petitioner that he accidentally walked on thar road with his bare foot and at the time, the hot thar on the road damaged his foot, as a result of which, his both legs below the knees were removed by the 8th respondent hospital after four surgeries that went unsuccessful. After multiple surgeries, the petitioner was discharged from the hospital with artificial limbs affixed by the 9th respondent under the care and supervision of the 8th respondent hospital for both the legs, and after four months of treatment, the petitioner had joined duty on 28.09.2018. It is stated that the petitioner is eligible for the medical reimbursement as per the Tamil Nadu Medical Health Scheme formulated by the Government.

3.The petitioner states that a sum of Rs.20,78,979/- was spent for his treatment and the petitioner submitted an application for reimbursement of medical expenses, along with medical bills, discharge summaries and documents to the official respondents for scrutiny and consideration.

4.The 6th respondent rejected the petitioner's claim by communication dated 15.11.2019 based on the recommendation of the 5th respondent dated 29.10.2019. Since the petitioner did not undergo treatment in the approved hospital as per the Medical Insurance Scheme, the claim of the petitioner for medical reimbursement was rejected. Subsequently, it is stated that, as the 5th respondent accepted the petitioner's representation, the petitioner found himself embarrassed and ultimately approached this Court for getting a direction to get his medical reimbursement to the tune of Rs.20,78,979/-

5.Despite several representations having been submitted by the petitioner for disbursement of medical reimbursement, it is stated that the respondents have not come forward to settle the amount. Though the District Collector by his proceedings dated 29.10.2019 accepted the bills, it is stated that the petitioner's representation for disbursement was not favourably considered by the respondent. The learned counsel appearing for the petitioner relied upon several judgments of this Court with regard to the medical reimbursement. The learned counsel relied upon the Division Bench judgment in W.P.(MD)No.4404 of 2014 etc., in the case of Ali Akbar vs. The Principal Secretary to Government, Department of Finance, Secretariat, St. George Fort, Chennai and others

> “14. ...
> 26.Before taking up the individual cases, we must record that there are certain situations which may arise and in fact which have arisen, for which the Government must issue clear guidelines. This the Government has to do, since it has made the Scheme obligatory for everyone and there is automatic deduction of premium to an extent of Rs.25/- per month. The directions are as follows:
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> (i)The State shall make it clear that if for some reason, which is satisfactory, the claimant is unable to take treatment in a network hospital but has been advised or had to go to a non-network hospital, then his claim would be considered under the Rules.
> (ii)If the claimant has been advised some procedure which is not covered by the Scheme, there again, it must be made clear that he can apply under the Rules.

(iii)To safeguard duplication of payments, the Government can make sure and when they apply under the Rules, that the claimant himself certifies that he has not made claim under the Scheme or vice-versa.

(iv)The State shall inform every network hospital that if it receives complaints from claimants that money was demanded for admission or for treatment, then that hospital will be removed from the network. This warning is necessary, since, at times of crisis, the claimants will not be in a position to argue with the hospital that this is a "cashless" Scheme. We are aware that there is an officer of the Star Health Insurance Company at every network hospital to ensure that hospitals adhere to the terms of the Scheme but, yet, it is better to make this position clear to the hospitals, since one of the questions that has arisen before us is that whether the claimants will be entitled to reimbursement if, by mistake, they pay cash.

27.Now coming to the individual cases, in all the case, whatever may be the category, the petitioners/claimants have paid the amount. The scheme is a 'cashless' one and, therefore, it is only the Government which have to make the payment under the Rules. The Redressal Committee is empowered to decide the following circumstances, namely, any difficulty in availing treatment, non-availability of facilities, bogus availment of treatment for ineligible individuals, etc. It is really not clear what other complaints would be covered under the umbrella "etc.". But, however, since the Paragraph relating to 'Redressal of Grievances' starts with the sentence "The Hospitals shall extend treatment to the beneficiaries under the Scheme on a cashless basis", it is evident that the Committee cannot direct payment of cash.

28.Therefore, if the claimants have made payments whether for a procedure not covered or whether at a non-network hospital or they have paid when they have been treated for a covered procedure in a network hospital, their only remedy is to approach the Government under the Rules. If, however, before they take treatment they are informed that a particular procedure is not covered, then at that stage, they may approach the Redressal Committee where the medical expert can decide whether that procedure is covered or not. The Redressal Committee may also go into the complaints regarding non-availability of facility at a network hospital, which may be available in favour of the claimant when he applies under the Rules. Otherwise, we do not think that the Redressal Committee can do much in any one of these cases, since all the petitioners/claimants before us would have made payments. But, if there is a petitioner who has not settled the claim and has come before us, then, in the event, that it is for a procedure that is not covered, he may approach the Redressal Committee. In view of the fact that there are the above lacunae in the Scheme, the Government shall not deny any claim validly made under the Rules only because the claimant is a member of the Scheme.?

15.In the above case, though it is found that the insurance company is not liable to reimburse the medical expenses to the employee, the liability of Government under the Medical Attendance Rules has been fixed and it is reiterated that the Government servants are entitled to medical reimbursement under the Tamil Nadu Medical Attendance Rules.

16.Another Division Bench of this Court also considered similar issue in W.A.(MD)No.1579 of 2016 in the case of MD India Healthcare Services (TPA) Ltd., represented by the Branch Manager, Chennai v. K.Parameshwari and others, following the judgment of the Division Bench of this Court, has confirmed the order of learned Single Judge allowing similar Writ Petition filed by the Government employee.

17.The learned counsel appearing for the petitioners also relied upon the judgment of a learned Single Judge of this Court in the case of N.Raja v. Government of Tamil Nadu reported in 2016 (3) CTC 394 wherein the writ petition with similar prayer is allowed with a direction to the State Government to sanction and reimburse the medical expenses incurred by the petitioner for his treatment with 9% interest from the date of remittance of the amount to the hospital by the petitioner till the date of payment within a period of four weeks.

18.The learned counsel appearing for the respondents have no serious objections for allowing the writ petition in terms of the judgement relied upon by the learned counsels appearing for the petitioners in the above cases. Hence, the order impugned in Writ Petition (MD) Nos.4705 of 2015, 3587, 4906 & 14468 of 2016, 1449, 3510, 3513, 4542, 5738, 6352 to 6354, 6623, 6726, 6769, 7943, 7956, 8405, 8611 & 10614 of 2017 are set aside and all the above Writ Petitions are allowed. No costs. Consequently, connected miscellaneous petitions are closed.

19.The petitioners in Writ Petition (MD).Nos.4705 of 2015, 3587, 4906 & 14468 of 2016, 1449, 3510, 3513, 4542, 5738, 6352 to 6354, 6623, 6726, 6769, 7943, 7956, 8405, 8611 & 10614 of 2017 whose application for medical reimbursement have been rejected either by the Treasury Officer of the District Treasury or by the Joint Director of Medical and Rural Health Services or by the Insurance Company are directed to submit the proposal to the respondent concerned who has communicated the rejection of claim for medical reimbursement of the petitioners concerned and on receipt of claim application by the petitioners, the respondent concerned in the respective Writ Petition is directed to forward the application for medical reimbursement to the Government or the authorised officer of the Government who has been authorised to consider and dispose of the medical reimbursement claim under the Tamil Nadu Medical Attendance Rules. The State Government or the authorised officer of the Government to whom the application is forwarded by the respondent concerned shall disburse the eligible amount to the respective petitioner with interest at the rate of 9% p.a. from the date of settlement of the medical bills by the petitioner till the amount is disbursed to the petitioner by the Government or by the department or by the officer concerned within a period six weeks from the date on which the petitioners' application is forwarded. The medical reimbursement claim cannot be rejected on the ground that treatment was taken in non-network hospitals or that the decease or procedure is not covered by the scheme or that petitioner has paid cash. In none of the case the fact that the petitioner had taken treatment / undergone treatment and spent the amount is not seriously disputed. Hence, there is no justification for keeping the application for medical reimbursement unnecessarily and further delay or rejection of claim by arbitrary orders will attract interest at the rate of 12% p.a. from this date.

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21.It is made clear that the State Government shall not reject the claim of the petitioner for medical reimbursement either on the ground that the hospital in which the claimant had undertaken treatment is not covered under the scheme or on the ground that the treatment / procedure is not included in the list / schedule for which the insurance scheme covers. The application for medical reimbursement also cannot be rejected on the ground that the claimant had taken treatment by paying cash.

22.It is further made clear that the Government or the Authorised Officer who has to decide the applications under the Tamil Nadu Medical Attendance Rules is directed to dispose of the applications within a period of three months from the date on which the applications are forwarded to the Government or the Officer concerned.

23.Assuming that the scheme is announced as a cashless scheme, it is reported that many hospitals which are included in the schedule of hospitals and bound to treat the Government servant free of cost, admit the employee as in-patient only after the Government servant pays for treatment. Hence, the Government shall examine the unreasonable rejection of claims by the insurance company on the ground that the treatment is taken by the Government servant after paying cash. Since the insurance companies have tie-up with hospitals which are included in the schedule, receipt of money by the hospitals for taking treatment cannot be a reason for rejecting such application. Hence, the Government shall insist the Insurance companies to honour the medical claims even if the treatment is taken after paying cash.

6.This Court in several judgements has repeatedly held that the claim made by the Government servants for medical reimbursement should be considered under the Medical Attendance Rules and that the respondents are liable to pay interest at 9% p.a. if there is any delay in disbursement of eligible amount.

7.The learned counsel further stated that the medical reimbursement cannot be kept on hold without considering the representations of the petitioner as he has been highly exhausted already by taking treatment.

8.Under such circumstances, this Court is inclined to allow this writ petition and this Court had an occasion to hold that, irrespective of the fact whether the procedure is included or the hospitals are included for the purpose of medical reimbursement, the application for medical reimbursement cannot be rejected. The respondents are directed to consider the petitioner's application for medical reimbursement in the light of the directions of this Court in several precedents which are referred into in this order, within a period of twelve weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

9.The learned counsel appearing for the petitioner also relied upon two judgements holding that the Government servants are also entitled to interest at 6% p.a. The respondents are directed to pay interest at 6% p.a. from the date of application for the amount the petitioner is entitled.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

ssr

To

1. The Secretary to Government,
   Finance (Salaries) Department,
   Fort St. George,
   Chennai - 600 009.

2. The Secretary to Government,
   Transport Department,
   Fort St. George,
   Chennai - 600 009.

3. The Director,
   Office of the Director of Treasuries and Accounts,
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4. The Commissioner,
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5. The District Collector,
   Tiruppur District.

6. The Joint Director,
   Medical and Rural Health Service,
   Government Hospital Head Quarters,
   Tiruppur.

7. The Managing Director,
   The United India Insurance Co. Ltd.,
   PLA Rathna Towers, 5th Floor,
   212, Anna Salai,
   Chennai - 600 006.

+1cc to Mr.D.R.Arunkumar, Advocate Sr No.37085
+1cc to Government Pleader Sr No.37365

W.P.No.15547 of 2021
and W.M.P.No.16461 of 2021

AD (CO)
PR (01/09/2021)