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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.09.2021

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THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.19284 of 2021
(Through Video Conferencing)

M.Mallika

... Petitioner

Vs

- 1.The State of Tamil Nadu,
Represented by
The Additional Chief Secretary to Government,
Finance Department,
Fort St. George,
Chennai - 600 009.
- 2.The Director of Medical & Rural Health Services,
DMS Compound,
No.359, Anna Salai,
Teynampet,
Chennai - 600 006.
- 3.The District Collector of Tirunelveli District/
Chairman, District Level Empowered Committee,
Tirunelveli.
- 4.The District Collector,
Tenkasi.
- 5.The Joint Director of Medical & Rural Health Services,
Tirunelveli - 627 009.
- 6.The Treasury Officer,
District Treasury,
Tirunelveli.
- 7.The Assistant Treasury Officer,
Sub Treasury,
Tenkasi.



8. The Senior Divisional Manager,
United India Insurance Company Limited,
Divisional Office VI,
PLA Rathna Towers,
5th Floor, No.212, Anna Salai,
Chennai - 600 006.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, to direct the respondents to pay a sum of Rs.3,25,980/- towards reimbursement of the balance amount of medical expenses incurred by the petitioner with interest at the rate of 12% per annum.

For Petitioner : Ms.Swadhi Subramaniam
For Respondents :

For R1 to R7 : Mr.L.S.M.Hasan Fizal
Government Advocate

ORDER

This is the second round of the litigation by the petitioner who is aged about 70 years.

2. It is the case of the petitioner that she underwent certain medical procedures in connection with her treatment for cancer and had incurred an amount of Rs.5,25,980/-. Under these circumstances, the petitioner had sent a representation on 07.06.2021 to the respondents to reimburse the same. Since the expenses were not reimbursed, the petitioner was constrained to file a writ petition in W.P.No. 12121 of 2020 which came to be disposed by an order dated 08.02.2021.

3. Pending disposal of the above writ petition, the respondents have released an amount of Rs.2,00,000/- to the petitioner under the Tamil Nadu Medical Attendance Rules.

4. The learned counsel for the petitioner submits that the issue is no longer res integra in terms of the decision of the Hon'ble Supreme Court in Shiva Kant Jha Vs. Union of India, 2018 (5) SCALE 551, wherein, the Hon'ble Supreme Court held as under:-

“17. The right to medical claim cannot be denied merely because the name of the hospital is not included in the government order. The real test must be the factum of treatment. Before any medical claim is honoured, the authorities are bound to ensure as to whether the



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claimant had actually taken treatment and the factum of treatment is supported by records duly certified by doctors/hospitals concerned. Once, it is established, the claim cannot be denied on technical grounds. Clearly, in the present case, by taking a very inhuman approach, the officials of CGHS have denied the grant of medical reimbursement in full to the petitioner forcing him to approach this Court." Similar stand was taken by our Hon'ble High Court in the case of E.Ramalingam Vs. the Director of Collegiate Education reported in 2006 (4) CTC 832 and in the case reported in 2016 (3) CTC 394."

5. The representation of the petitioner has not been evoked any positive response from the respondents. It is under these circumstances, the petitioner has now filed this writ petition.

6. Heard the learned counsel for the petitioner and the learned Government Advocate for the first to seventh respondents. I have perused the relevant Government Orders and the Order of the Hon'ble Supreme Court.

7. The law on the subject is clear as per the decision of the Hon'ble Supreme Court in Shiva Kant Jha case referred to supra. Under these circumstances, this Court is inclined to dispose this writ petition by directing the respondents to consider the representation of the petitioner positively and release the balance amount of Rs.3,25,980/- that is due to the petitioner in accordance with the decision of the Hon'ble Supreme Court, within a period of six weeks from the date of receipt of a copy of this order.

8. This Writ Petition stands disposed of with the above observations. No costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

arb/nst
To

1.The Additional Chief Secretary,
Government of Tamil Nadu,
Finance Department,
Fort St. George, Chennai - 600 009.



2.The Director of Medical & Rural Health Services,
DMS Compound,
No.359, Anna Salai,
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3.The District Collector of Tirunelveli District/
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8.The Senior Divisional Manager,
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+lcc to the Government Pleader Sr.46917
+lcc to Mr.R.Prem Narayan, Advocate Sr.46363

W.P.No.19284 of 2021

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srg 20/10/2021