



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.11.2021

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.23534 of 2021
(Through Video Conferencing)

K.Chandra

...Petitioner

Vs

- 1.The Additional Chief Secretary to Government,
Finance Department, Fort St. George, Secretariat,
Chennai- 600 009.
 - 2.The Commissioner of Treasuries and Accounts,
Office of the Directorate of Treasuries & Accounts,
3rd Floor, Integrated Office complex for
Finance Department, Veterinary Hospital Campus,
Anna Salai, Nandanam, Chennai - 600 035.
 - 3.The Director of Medical and Rural Health services,
DMS complex, 361, Anna Salai,
Chennai.
 - 4.The Joint Director of Rural Health Services,
Government Head quarters Hospital,
Namakkal- 637 001.
 - 5.The District Collector,
1st Floor Collectorate, Thiruchengode Road,
Namakkal - 637 003.
 - 6.The Treasury Officer, District Treasury,
Namakkal Collectorate Complex,
Namakkal - 637 003.
 - 7.United India Insurance Company Limited,
Division Office 010600,
5th Floor, PLA Rathna Tower,
212, Anna Salai, Chennai - 600 006.
- ...Respondents



Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the order bearing Na.Ka.No.6084/MK/2019 dated 27.04.2021 passed by the fourth respondent and consequent order bearing Na.Ka.No.1678/2021/B1 dated 13.05.2021 passed by the sixth respondent and quash the same and further direct the respondents to process the petitioner's claim and reimburse the medical expenses incurred by the petitioner with interest.

For Petitioner : Ms.Anu Ganesan
For Respondents :
For R1 to R6 : Mr.L.S.M.Hasan Fizal
Government Advocate

ORDER

Mr.L.S.M.Hasan Fizal, learned Government Advocate takes notice on behalf of the first to sixth respondents.

2. The petitioner retired as a staff nurse from the Government services and underwent treatment. Earlier, the petitioner was admitted in Sri Ramakrishna Hospital (Sri Ramakrishna Institute of Oncology & Research), Coimbatore on 14.05.2020 and was discharged on 17.05.2020. Thereafter, the petitioner travelled all the way to Bangalore and got herself admitted in Manipal Hospital (Manipal Health Enterprises Private Limited) on 03.06.2020, underwent surgery and took treatment in the said hospital between 03.06.2020 to 15.06.2020.

3. Since the petitioner was covered by New Health Insurance Scheme (NHIS) of 2018, which was given publicity vide G.O.Ms.No.222, Finance (Pension) Department dated 30.06.2018, the petitioner filed a claim petition before the fourth respondent with the request to the seventh respondent to reimburse the medical expenses incurred by the petitioner in the said Manipal Hospital (Manipal Health Enterprises Private Limited), Bangalore.

4. The case of the petitioner is that the claim of the petitioner along with sixteen others were also forwarded by the fourth respondent bearing Na.Ka.No.6084/MK/2019 dated 05.01.2021.

5. By the impugned communication dated 27.04.2021, the fourth respondent has now informed the petitioner that the petitioner has taken treatment in a non-network hospital and therefore the petitioner cannot claim compensation under the aforesaid New Health Insurance Scheme (NHIS).



6. The learned counsel for the petitioner has drawn attention to the following orders of this Court in

(i) S.Marimuthu Vs The Government of Tamil Nadu and others passed in W.P.(MD).No.13429 of 2013 etc batch dated 28.05.2019.

(ii) A.Shanmugam Vs The Principal Secretary to Government and others passed in W.P.No.611 of 2021 dated 14.02.2020 and

(iii) S.M.Vasanthi Vs The State of Tamil Nadu and others passed in W.P.(MD).No.19914 of 2020 dated 05.05.2021.

7. The learned counsel for the petitioner submits that the petitioner is a senior citizen and is unnecessarily being harassed as the compensation for the expenses incurred towards the medical expenses ought to be refunded considering the fact that the petitioner is covered by the aforesaid Government Order in G.O.Ms.No.222, Finance (Pension) Department dated 30.06.2018.

8. Appearing on behalf of the first to sixth respondents, learned Government Advocate submits that the fourth respondent is merely communicating the decision of the seventh respondent which has considered the scope of the relevant Government Order and has informed that the petitioner is not entitled for any compensation for having taken treatment in a non-network hospital.

9. The Government Advocate further submits that the petitioner has an alternate remedy to approach the State Level Scrutiny Committee (SLSC) against the decision/communication dated 27.04.2021 of the fourth respondent informing the reasons for rejecting the request of the petitioner by the seventh respondent.

10. The learned Government Advocate has drawn attention to G.O.Ms.No.160, Finance (Salaries) Department dated 29.06.2021. Paragraph 6 (4) (d) of the aforesaid Government Order reads as under:-

"6. The Government after careful consideration directs that:-

(1)

(2)

(3)

(4)

(d) The medical treatment taken by the employees of Government Departments, Local Bodies, State Public Sector Undertakings, Statutory Boards and State Government Universities etc., and their eligible family members in Non-Network hospital under Non-Emergency



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situation shall also be covered on reimbursement basis. However, since the quality of treatment and facilities provided in a Non-network Hospital is not known and the employee is consciously choosing to avail treatment in such hospital, the quantum of reimbursement in such cases shall be restricted to 75% of the package rate of similar procedure in the lowest grade Network hospital."

11. Heard the learned counsel for the petitioner and the learned Government Advocate for the first to sixth respondents. I have perused the impugned communication of the fourth respondent, G.O.Ms.No.222, Finance (Pension) Department dated 30.06.2018 and G.O.Ms.No.160, Finance (Salaries) Department dated 29.06.2021.

12. Though the learned Government Advocate for the first to sixth respondents has referred to G.O.Ms.No.160, Finance (Salaries) Department dated 29.06.2021, the said Government Order appears to be only prospective and not retrospective. The case of the petitioner is to be otherwise considered only in terms of G.O.Ms.No.222, Finance (Pension) Department dated 30.06.2018 considering the fact that the petitioner has indeed undergone a surgery though in a non-network hospital. It would be unfair to deny the compensation to the petitioner if the petitioner has otherwise undergone the same procedure in a network hospital.

13. After all the petitioner and the respondents are paying huge premium to the seventh respondent to reimburse the medical expenses incurred by the beneficiaries.

14. Considering the above, this court is inclined to dispose this writ petition by directing the fourth respondent to write/give appropriate communication to the 7th respondent to reimburse the maximum compensation that can be paid to the petitioner had the petitioner taken treatment in a network hospital.

15. This exercise shall be carried out by the fourth respondent within a period of thirty days from the date of receipt of a copy of this order. The seventh respondent shall thereafter pass appropriate orders to reimburse the compensation/amount.

16. In case the seventh respondent is not willing to pay the compensation to the petitioner, the fourth respondent shall reimburse the compensation/amount incurred by the petitioner



towards medical expenses from any of the funds that are available for seventh respondent and also to consider impact of G.O.Ms.No.160, Finance (Salaries) Department dated 29.06.2021.

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17. In the result, it is ordered as follows:-

(i) The fourth respondent shall write appropriate communication to the seventh respondent to recommend reimbursement of the maximum medical expenses incurred by the petitioner had the petitioner taken treatment in a network hospital.

(ii) In case the seventh respondent refuses to pay the amount, the fourth respondent shall ensure the compensation which is otherwise payable to the petitioner if the petitioner had taken treatment in a network hospital. The petitioner is also given liberty to recover the same from the seventh respondent.

(iii) Entire exercise shall be carried out by the respondents within a period of sixteen weeks from the date of receipt of this order.

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

Sd/-
Assistant Registrar

// True Copy//

Sub Assistant Registrar

rgm/arb
To

- 1.The Additional Chief Secretary to Government,
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+1 CC to The Government Pleader sr 57691

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PCH(CO)
SP(29/11/2021)