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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.03.2021

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THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.30467 of 2017

T.G.Subramanian

... Petitioner

Vs.

1. The Director of Pension,
Teynampet, Chennai - 600 006.
2. The District Treasury Officer,
District Treasury, Tiruvallur District - 602 001.
3. The Assistant District Treasury Officer,
District Treasury, Tiruvallur District - 602 001.
4. The Joint Director of Health Services,
Tiruvallur District.
5. United India Insurance Co. Ltd.,
Rep. by its General Manager [P],
Registered Officer No.24, Whites Road,
Royapettah, Chennai - 600 014,
and also having Office at United India Insurance Co.Ltd.,
No.19, Nungambakkam High Road,
IV Lane, Chennai - 600 034.

(R5 impleaded as per the order of this Court
dated 26.02.2021 in WMP.No.5729 of 2020
in WP.No.30467 of 2017)

... Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the entire records pertaining to the impugned Order passed by the 4th respondent in L.Dis.No.929/A4/2017 dated 20.03.2017, quash the same and further direct the 1st respondent to grant medical reimbursement claimed by the petitioner for the sum of Rs.4,87,285/- along with the interest at the rate of 9% interest per annum, from 09.02.2017, which is the date of the application of the petitioner for the reimbursement of medical expenses, till the date of actual payment of the said amount.



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For Petitioner : Mr.G.Murugendran

For Respondents: Mr.J.Ramesh,
Additional Government Pleader -
R1 to R4
Mr.P.Sankaranarayanan - R5

ORDER

This writ petition has been filed by the petitioner to quash the order of the fourth respondent in L.Dis.No.929/A4/2017 dated 20.03.2017 and further direct the first respondent to grant medical reimbursement as claimed by the petitioner for a sum of Rs.4,87,285/- along with interest at 9% per annum, from 09.02.2017 till the date of actual payment.

2.It is the case of the petitioner that he worked as Road Surveyor from the year 1973 and retired from service on 31.07.2009 in the office of the Block Development Officer, Poondi. He is having New Medical Insurance Scheme Card under PPO No.C2116017 and ID No.TLR/T/NHISP14/0037541. While so, he met with an accident on 18.12.2016, due to which, he was admitted in F.O.R Ortho Hospital at Kolathur, Chennai and undergone treatment from 18.12.2016 to 04.01.2017. After recovery, he submitted an application on 09.02.2017 to the first respondent through the third respondent, to reimburse the medical charges to a sum of Rs.4,87,285/-. The said application was returned by a communication dated 20.03.2017 sent by the fourth respondent to the second respondent stating the reason "procedure not covered". Feeling aggrieved, the petitioner is before this Court with the present writ petition.

3.Upon notice, the second respondent filed a detailed counter affidavit, wherein it is inter alia stated that the Government with a view to provide a better health care to the employee/pensioner, had entered into an agreement with United India Insurance Company Limited / Third party administrator and accordingly, 807 easily accessible approved hospitals and 113 surgery procedure covered to get the cashless treatment, but still certain employees/pensioners are taking unapproved treatment and getting treatment / surgery in a non-network hospital and pressing for reimbursement of the expenditure incurred by them; and if this kind of approach is encouraged, it would certainly defeat the very purpose of the creation of the scheme itself.

4.The averments so made in the counter affidavit have been seriously refuted by the learned counsel for the petitioner. He further submitted that in an identical case in WP.No.1523 of 2007, this Court by order dated 12.01.2007, after following the



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several decisions of the Supreme Court as well as this Court, allowed the said writ petition and directed the respondent therein to grant the medical reimbursement claimed by the petitioner therein, the relevant passage of which, is usefully extracted hereunder:

"5.Issue relating to this case has already been decided in more than one case. In one case reported in 1996 2 SCC 336 (SURJIT SINGH v. STATE OF PUNJAB) the Honourable Apex Court had an occasion to decide when treatment was conducted in a hospital in a particular manner, the stand taken by the department that the nature of treatment is not approved as per the Government Order. The Honourable Apex Court has held that it is not for the Department to suggest as to what should be the nature of treatment and it is for the concerned individual in consultation with the medical practitioners to decide upon the nature which depends on the body stature. That was the decision rendered by the Apex Court in the said Judgment.

In a decision reported in 2006 2 M.L.J. 747 (C.NAGAMUTHU v. STATE OF TAMIL NADU) this Court has held enlisting of hospitals cannot be the policy of the Government while framing such beneficial schemes.

In another decision reported in 2006 4 CTC 832 (E.RAMALINGAM v. THE DIRECTOR OF COLLEGIAE EDUCATION) this court had an occasion to deal with the nature of treatment.

6.While the object of the scheme is to give financial support to the deserving persons, who contributed towards the Health Fund Scheme, naturally it is not open to the authorities to suggest the manner of treatment or to suggest that the treatment should be undergone in a particular hospital alone which can never be the policy of the Government.

7.Following hierarchy of judgments, there is absolutely no difficulty to come to a conclusion that the impugned order of the first respondent is unsustainable and hence the impugned order is set aside. The writ petition stands allowed with a direction to the first respondent to grant the medical reimbursement claimed by the petitioner subject to the maximum limit to which he is entitled if there are no other legal impediment and such amount shall be paid within a period of 8 weeks from the date of receipt of a copy of this order. Consequently, connected M.P. is closed."



The learned counsel further submitted that referring to catena of decisions, similar relief was granted to the petitioner in WP.No.6767 of 2010 also, by order of this Court dated 21.06.2013. Hence, the learned counsel sought to extend the same benefit to the petitioner herein as well.

5. Heard the learned counsel appearing for the respondents, who fairly conceded the aforesaid order passed by this Court.

6. Considering the facts and circumstances of the case and having regard to the submissions made by the learned counsel on either side and also following the aforesaid earlier order, which holds the field, the order impugned herein is set aside and the matter is remanded back to the respondents for passing fresh orders, in the light of the earlier orders of this Court as referred to above, within a period of eight weeks from the date of receipt of a copy of this order.

7. Accordingly, this writ petition stands disposed of. No costs.

Sd/-
Assistant Registrar(CS-IX)

//True Copy//

Sub Assistant Registrar

vrc

To

1. The Director of Pension,
Teynampet, Chennai - 600 006.
2. The District Treasury Officer,
District Treasury, Tiruvallur District - 602 001.
3. The Assistant District Treasury Officer,
District Treasury, Tiruvallur District - 602 001.
4. The Joint Director of Health Services,
Tiruvallur District.
5. The General Manager [P],
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Registered Officer No.24, Whites Road,
Royapettah, Chennai - 600 014,
and also having Office at United India Insurance Co.Ltd.,
No.19, Nungambakkam High Road,
IV Lane, Chennai - 600 034.



+1cc to Mr.P.Sankaranarayanan, Advocate, S.R.No.21375

+1cc to Mr.G.Murugendran, Advocate, S.R.No.20566

+1cc to the Government Pleader, S.R.No.21055

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W.P.No.30467 of 2017

RSV(CO)
CB(16/07/2021)