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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.02.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P(MD)No.7773 of 2012

Nesamani(died)

Glory Florance ... Petitioner

(The petitioner is substituted as LRs of the deceased sole petitioner, vide order dated 09.02.2018 in M.P.(MD)No.1 of 2015)

Vs.

1.The Tamil Nadu State Transport Corporation(Tirunelveli) Ltd., Tirunelveli, represented by its Managing Director.

2.The General Manager, Tamil Nadu State Transport Corporation(Tirunelveli) Ltd., Nagercoil Region, Nagercoil, Kanyakumari District.

3.Star Health and Allied Insurance Co., Ltd., Tamil Nadu Government Employees New Health Insurance Scheme, 2A, Ganga Nagar Road, Kodambakkam, Chennai-24. ... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus to call for the entire records of the second respondent, vide proceedings No.4692/LW3/TNASTC/NGL/2008, dated 24.03.2012 and quash the same and consequently direct the respondents to sanction the medical reimbursement of Rs.1,42,000/-, the medical expenses incurred by the petitioner.

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For Petitioner : Mr.V.Kannan

For Respondents : Mr.K.Sathiya Singh
Standing Counsel
for R.1 and R.2
: Mr.S.Anwar Sameem
Standing Counsel for R.3

* * * * *

ORDER

This Writ Petition is filed seeking for issuance of a Writ of Certiorarified Mandamus to call for the entire records of the second respondent, vide proceedings No.4692/LW3/TNASTC/NGL/2008, dated 24.03.2012 and quash the same and consequently direct the respondents to sanction the medical reimbursement of Rs.1,42,000/-, the medical expenses incurred by the petitioner.

2. It is represented that during the pendency of the writ petition, the petitioner died and his wife was substituted as legal representative of the petitioner.

3. The case of the petitioner is that the petitioner's husband joined as a Driver on 18.01.1978 in the Kattapomman Transport Corporation, a Government of Tamil Nadu undertaking in its Ranithottam Branch and subsequently it was renamed as Tamil Nadu State Transport Corporation. A consolidated medical code was framed by the then Transport Corporation giving medical assistance to the employees, who were employed in the Transport Corporation and to their family members.

4. As per the Medical Code, the employees who have been appointed before 30.09.1978 are covered under the Code and as per the said Code, the employees who joined before 30.09.1978 and rendered more than 10 years of service are entitled to medical reimbursement without any limit. While the said scheme was in operation, G.O.Ms.No.2309, Transport Department, dated 21.05.1990 was issued, by directing all the State Transport undertakings to pay a sum of Rs.50,00,000/- per annum in proportion to the number of employees, who are eligible to avail medical facility in the Government Hospitals. Further, the said Government Order was not implemented, as the Corporation failed to deposit the amount and pursuant to the settlement under Section 12(3) of the Industrial Disputes Act, 1947, signed on 28.09.1995, the Tamil Nadu Transport Corporation Employees Family Medical Assistance Scheme was introduced.

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5. As per the said scheme, a workman is eligible to get Rs.1,00,000/- towards reimbursement of medical treatment in respect of himself as well as his dependents. The respondent Corporation implemented the above scheme till 2008 and after 2008, the respondent Corporation introduced a medical health insurance namely Star Health Insurance Scheme as per G.O.Ms.No.430, Finance (Salaries) Department, dated 10.09.2007. The beneficiary should be an employee of the Government of Tamil Nadu, Local Body, Public Section Undertaking, Statutory Board and State Government Universities and the period of coverage is four years from 11.06.2008 to 10.06.2012 or until the date of retirement of the employee whichever is earlier.

6. The petitioner would further aver that the petitioner's husband is a member and subscriber of the Tamil Nadu Government Employees New Health Insurance Scheme from the day of its inception and prescribed sum of Rs.25/- is being recovered from the salary of the petitioner's husband by the Trasnport Corporation and the said amount was also paid to the Star Health Insurance – third respondent periodically. While so, the petitioner's husband was admitted in Dr.Jeyasekaran Hospital at Nagercoil for taking treatment to his heart ailment on 08.12.2011 and after treatment and surgery, he was discharged on 08.12.2011. During the said treatment, the petitioner had incurred an expenditure of Rs.1,42,000/- on valid receipts issued by the said hospital. Thereafter, the petitioner repeatedly representations and finally on 22.02.2012 for the reimbursement of the medical expenses to the second respondent under the above said scheme with the third respondent, however, the said representation was rejected by the second respondent, vide proceedings dated 24.03.2012 referring the letter of the third respondent by stating that the last date fixed by the Government was 31.05.2011 for uploading the employee details on the website of Treasuries and Accounts Department in respect of persons appointed before 31.03.2011 and that in the absence of I.D., number of the petitioner, they were unable to respond to the claim of the petitioner. Challenging the same, the present writ petition is filed.

7.Learned Counsel appearing for the petitioner would submit that the Government took a policy decision to entrust their medical health insurance scheme to the third respondent, vide G.O.Ms.No.430, Finance(Salaries) Department, dated 10.09.2007. The petitioner had no chance to choose the Insurance Company and the Government themselves fixed the Insurance Company for medical reimbursement and the Transport Corporation themselves recovered the amount of Rs.25/- per month from the salary of the petitioner and in toto, paid the amount to the third respondent Insurance Company. It is the duty of the Transport Corporation to upload the personal datas to the third respondent. In the absence of the same, the impugned order of the second respondent, by rejecting the claim of the petitioner is unsustainable one and hence, the learned Counsel would pray for appropriate orders.

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8. Learned Standing Counsel appearing for the Transport Corporation would submit that the Transport Corporation deducted a sum of Rs.25/-per month from the petitioner's salary and the said amount was paid to the Insurance Company - third respondent herein and he would also file a statement report before this Court to that effect.

9. Learned Standing Counsel appearing for the Transport Corporation would also submit that the entire amount recovered from the employees were paid to the Insurance Company for the purpose of providing reimbursement of medical expenses and hence, this Court may issue a direction to the third respondent to pay the said amount to the petitioner within a reasonable time.

10. Learned Standing Counsel appearing for the third respondent - Insurance Company would submit that the second respondent sent a letter dated 24.02.2012 to the Insurance Company seeking reimbursement for the writ petitioner, wherein the Transport Corporation itself admitted that the petitioner had not submitted Annexure -I Form, ie., the details of the petitioner's family members for uploading in the website and therefore, the particulars were not uploaded and in the absence of any ID number, the Insurance Company was unable to respond.

11. It is further submitted by the learned Standing Counsel appearing for the third respondent that the Transport Corporation has not paid any amount to the Insurance Company, insofar as this petitioner is concerned and hence, the Insurance Company is not liable to pay any reimbursement. The petitioner can claim reimbursement only from the Transport Corporation under the medical attendance rules. Therefore, the learned Standing Counsel would pray for dismissal of the writ petition.

12. Heard the learned Counsel appearing for the petitioner, the learned Standing Counsel appearing for the respondents 1 and 2 and the learned Standing Counsel appearing for the third respondent and perused the materials placed on record.

13. It is an admitted fact that the petitioner's husband joined as a Driver in the year 1978 in the Transport Corporation. A consolidated medical code was framed for giving medical assistance to the employees, who were employed in the Transport Corporation and to their family members. As per G.O.Ms.No.2309, Transport Department, dated 21.05.1990 all the State Transport undertakings were directed to pay a sum of Rs.50,00,000/- per annum in proportion to the number of employees, who are eligible to avail medical facility in the Government Hospitals. Further, the said Government Order was not implemented and pursuant to the settlement under Section 12(3) of the Industrial Disputes Act, 1947, dated 28.09.1995, the Tamil Nadu Transport Corporation Employees Family Medical Assistance Scheme was introduced. The respondent Corporation

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implemented the above scheme till 2008 and after 2008, the respondent Corporation introduced Star Health Insurance Scheme as per G.O.Ms.No.430, Finance (Salaries) Department, dated 10.09.2007 and the period of coverage is four years from 11.06.2008 to 10.06.2012 or until the date of retirement of the employee whichever is earlier.

14. It is also an admitted fact that the petitioner is a member and subscriber of the Tamil Nadu Government Employees New Health Insurance Scheme and a sum of Rs.25/- per month was recovered from the salary of the petitioner by the Trasnport Corporation and the said amount was also paid to the Star Health Insurance – third respondent periodically. The petitioner had incurred an expenditure of Rs.1,42,000/- for taking treatment to his heart ailment. The petitioner made several representations and finally on 22.02.2012 for the reimbursement of the medical expenses, however, the same was rejected by the second respondent, vide proceedings dated 24.03.2012 referring the letter of the third respondent by stating that the last date fixed by the Government was 31.05.2011 for uploading the employee details on the website of Treasuries and Accounts Department in respect of persons appointed before 31.03.2011 and that in the absence of I.D., number of the petitioner, they were unable to respondent to the claim of the petitioner.

15. The Transport Corporation paid the entire amount recovered from the employees to the Insurance Company for the purpose of providing reimbursement of medical expenses and the Transport Corporation has also deducted a sum of Rs.25/-per month from the petitioner's salary and the said amount was also paid to the Insurance Company – third respondent and a statement report has also been placed before this Court to that effect.

16. Since the Transport Corporation has paid the amount to the Insurance Company, which was deducted from the salary of the petitioner towards health insurance and a proof has also been filed to that effect, the third respondent Insurance Company is liable to pay the expenses incurred by the petitioner during his medical treatment. Since the petitioner died during the pendency of the writ petition, the third respondent Insurance Company is directed to pay the said amount which was paid during the petitioner's medical treatment to the legal heir of the petitioner, within a period of six weeks from the date of receipt of a copy of this order.

17. With the above observations, this Writ Petition stands allowed. No costs.

Sd/
Assistant Registrar(CS-I)

/True copy/

/ /2021

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Sub Assistant Registrar(CS-)

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy,shall be the responsibility of the advocate/litigant concerned.

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To

1.The Tamil Nadu State Transport
Corporation(Tirunelveli) Ltd.,
Tirunelveli, represented by its
Managing Director.

2.The General Manager,
Tamil Nadu State Transport
Corporation(Tirunelveli) Ltd.,
Nagercoil Region,
Nagercoil, Kanyakumari District.

3.Star Health and Allied Insurance Co., Ltd.,
Tamil Nadu Government Employees New
Health Insurance Scheme,
2A, Ganga Nagar Road,
Kodambakkam, Chennai-24.

+1 CC to Mr.K.SATHIYA SINGH, Advocate SR-5291[F] dated 16/02/2021

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15.02.2021

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