



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.04.2021

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P (MD)No.7759 of 2021

P.Muthukrishnan

... Petitioner

vs.

1.The Director,
Medical and Rural Health Services,
DMS Compound,
Teynampet,
Chennai - 600 006.

2.The District Collector,
Office of the Collectorate,
Tirunelveli District.

3.The Treasury Officer,
Office of the District Treasury,
Old Collectorate Complex,
Tirunelveli District.

4.The Manager,
United India Insurance Company Limited,
19, Nungampakkam High Road, IV Lane,
Chennai - 600 034.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the respondents to reimburse the medical expenses to a sum of Rs.60,867/- (Rupees Sixty thousand Eight Hundred and Sixty Seven only) and Rs.1,04,653/-(Rupees One lakh Four thousand six hundred and fifty three only) in total Rs.1,65,520/- (Rupees one lakh sixty five thousand five hundred and twenty only) to the petitioner by accepting his applications, dated 08.01.2020 and 17.02.2020 within a time frame fixed by this Court.

For Petitioner : Ms.P.Jessi Jeeva Priya

For RR 1 to 3 : Mr.M.Murugan
Government Advocate

For R - 4 : Mr.A.Shajahan

ORDER

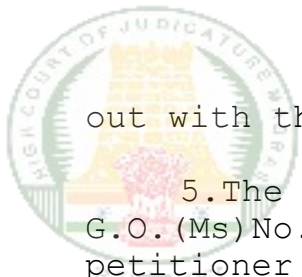


This Writ Petition is filed seeking a Writ of Mandamus, directing the respondents to reimburse the medical expenses to a sum of Rs.60,867/- (Rupees Sixty thousand Eight Hundred and Sixty Seven only) and Rs.1,04,653/- (Rupees One lakh Four thousand six hundred and fifty three only) in total Rs.1,65,520/- (Rupees one lakh sixty five thousand five hundred and twenty only) to the petitioner by accepting his applications, dated 08.01.2020 and 17.02.2020 within a time frame to be fixed by this Court.

2.Heard the learned counsel appearing for the petitioner, Mr.M.Murugan, learned Government Advocate appearing for the respondents 1 to 3 and Mr.A.Shajahan, learned counsel appearing for the fourth respondent.

3.According to the petitioner, he was employed as Personal Assistant to the Superintendent of Police, Tirunelveli in the Tamil Nadu Police Department and retired from service on attaining the age of superannuation on 30.11.2007. The petitioner's wife, namely, M.Lakshmi, aged about 66 years, was diagnosed of WLE-Right Breast Lump-Colloid Carcinoma Breast at Shri Uthradam Thirunal Multi-speciality Hospital (SUT Hospital), Pattom Palace, Thiruvananthapuram on 09.11.2019 and the pathology report was received on 12.11.2019. Since the Doctor advised to remove the lump immediately to avoid further spreading, the petitioner's wife was admitted in the said SUT Hospital, Pattom on 22.11.2019 and underwent excision right breast lump on 23.11.2019 and discharged on 24.11.2019. The petitioner paid a sum of Rs.60,867/- towards the above medical treatment and submitted an application before the third respondent on 08.01.2020, for reimbursement of the above medical expenses.

4.In the meantime, his wife had further complications and was advised to remove the entire right side breast at the earliest and she was admitted at KIMS, Trivandrum Hospital on 19.01.2020 and surgery was done on 20.01.2020 and discharged on 21.01.2020. The petitioner paid a sum of Rs.1,04,653/- towards the above medical treatment. Thereafter, the petitioner submitted an application, dated 17.02.2020, before the third respondent for reimbursement of the above medical expenses. The third respondent forwarded the application, dated 08.01.2020 to the District Level Empowering Committee, headed by the second respondent. After perusing the petitioner's claim, the Committee accepted the same and forwarded to the fourth respondent. The third respondent, by his proceedings in O.Mu.No.7334/2020/N1, dated nil October, 2020 and further proceedings in Na.Ka.No.1416/2021/N1, dated nil February 2021 has stated that the fourth respondent has returned the petitioner's applications stating that the treatment taken in a "Non-network Hospital", need not be considered, as per G.O.Ms.No.222, Finance (Pension) Department, Government of Tamil Nadu, dated 30.06.2018. Seeking reimbursement of medical expenses, the petitioner has come

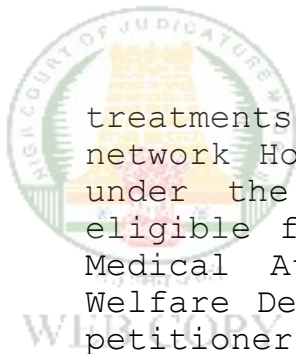


out with the present Writ Petition.

5.The learned counsel for the petitioner contended that as per G.O.(Ms)No.391, Finance (Salaries) Department, dated 10.12.2018, the petitioner is entitled for reimbursement of the amounts spent for the treatment taken for her wife in a non-network hospital, as the petitioner's wife had undergone surgery to remove the entire right side breast on emergency basis. The learned counsel has also relied on the order of this Court in **N.Raja v. The Government of Tamil Nadu** reported in **2016(3) CTC 394**, wherein this Court held that when an employee underwent treatment in a non-network hospital in emergency, the employee is entitled for reimbursement of medical expenses and prayed for allowing the writ petition.

6.The learned Special Government Pleader appearing for the respondents 1 to 3 and the learned counsel appearing for the second respondent separately contended that the petitioner is residing at Tirunelveli and knowing fully well that SUT Hospital, Pattaom and KIMS, Trivandrum Hospital are Non-network Hospitals and took treatment for his wife. Therefore, the petitioner is not entitled for reimbursement of medical expenses from the respondents, as per the medical scheme. As per the medical scheme, the respondents are liable to pay the medical expenses, if only, the treatment taken in a network hospital approved by the Secretary to Government, Finance (Salaries) Department, Chennai. If treatment is taken in a Non-network Hospital, the respondents are not liable to reimburse the medical expenses spent by the petitioner and petitioner is not entitled to the relief sought for in the present writ petition.

7.From the materials on record, it is seen that in an emergency, the petitioner had underwent surgery in removal of the entire right side breast in SUT Hospital, Pattaom and KIMS, Trivandrum Hospital, which are non-network hospitals. The Insurance Policy is in between the Insurance Company, Government and its employer and the same is contractual in nature. The Insurance Company will be liable to meet the medical expenses only as per the terms of the insurance policy. The learned counsel for the petitioner and the learned Special Government Pleader contended that in the policy, it has been held that the respondents are liable to pay the medical expenses, only if the treatment is taken in a network hospital approved by them. The petitioner had taken a treatment in a non-network hospital and therefore, the respondents are not liable to pay the medical expenses incurred by the petitioner. In the order relied on by the learned counsel for the petitioner in the case of **N.Raja v. The Government of Tamil Nadu** reported in **2016(3) CTC 394**, it has been held that when an employee undergoes treatment in an emergency in a non-network hospital, the employee is eligible for reimbursement from the Government. Further, in Clause 5(4) of G.O.Ms.No.391, dated 10.12.2018, it is stated that an employee/eligible family members undergoes emergency



treatments/surgeries, not covered under this Scheme either in a network Hospital or a Non-network Hospital, no claim can be filed under the New Health Insurance Scheme. However, they shall be eligible for claim to the extent permissible under the Tamil Nadu Medical Attendance Rules and G.O.Ms.No.1023, Health and Family Welfare Department, dated 17.06.1980. As per the said Rules, the petitioner is entitled upto Rs.2,00,000/-. In view of the Judgment of the Division Bench relied on by the learned Single Judge in the order in ***N.Raja v. The Government of Tamil Nadu*** reported in ***2016(3) CTC 394*** and G.O.(Ms)No.391, dated 10.12.2018, the petitioner is entitled to the benefit of medical reimbursement as per the Tamil Nadu Medical Attendance Rules. In view of the same, the respondents are directed to pay the eligible amount as per the Tamil Nadu Medical Attendance Rules to the petitioner, within a period of twelve weeks from the date of receipt of a copy of this order.

8.With the above observations and direction, the Writ Petition is allowed. No costs.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

ps

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.

To

1.The Director,
Medical and Rural Health Services,
DMS Compound,
Teynampet,
Chennai - 600 006.

2.The District Collector,
<https://hcservices.ecourts.gov.in/hcservices/>



Office of the Collectorate,
Tirunelveli District.

3.The Treasury Officer,
Office of the District Treasury,
Old Collectorate Complex,
Tirunelveli District.

4.The Manager,
United India Insurance Company Limited,
19, Nungampakkam High Road, IV Lane,
Chennai - 600 034.

+1 CC to M/s.P.JESSI JEEVA PRIYA, Advocate (SR-17678[F] dated
27/04/2021)

+1 CC to M/s.A.SHAJAHAN, Advocate (SR-17849[F] dated 28/04/2021)

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RK (13.05.2021) 5P 7C