



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.04.2021

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P.(MD)No.8040 of 2021

and

W.M.P(MD)No.6138 of 2021

WEB COPY

M.A.Jawaharudeen

... Petitioner

Vs.

- 1.State of Tamil Nadu,
Represented by the Secretary to Government,
Department of Health and Family Welfare,
Secretariat, Fort St. George,
Chennai-9.
- 2.The State of Tamil Nadu,
Rep. by the Secretary to Government,
Finance (Pension Department),
Secretariat, Chennai-9.
- 3.The District Collector,
Collectorate,
Tirunelveli District.
- 4.The Joint Director of Medical and Rural Health Services,
O/o.Joint Director of Medical and Rural Health Services,
Tenkasi, Tirunelveli District.
- 5.The United India Insurance Company ltd.,
Rep. by the Divisional Manager,
Divisional office,
5th Floor PLA Rathna Tower,
212, Anna Salai,
Chennai-600 006.

... Respondents

PRAYER: Writ Petition under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in Na.Ka.No.5917/Ka5/2018, dated 16.09.2019 on the file of the respondent No.4 and consequential impugned order in Na.Ka.No.5917/Ka5/2018 dated 11.01.2021 on the file of the Respondent No.4 and quash the same as illegal and consequential direction to the respondents to grant the Medical Reimbursement claim of Rs.1,93,952/- (Rupees one Lakh Ninety Three Thousand Nine Hundred and Fifty Two only) with accrued interest to the



petitioner under the Government of Tamil Nadu New Health Insurance Scheme-2016 within the time stipulated by this Court.

For Petitioner : Mr.I.Pinaygash
For R1 to R4 : Mr.C.M.Mari Chellaiah Prabhu
Additional Government Pleader

WEB COPY

ORDER

This writ petition is filed challenging the orders of the fourth respondent in Na.Ka.No.5917/Ka5/2018, dated 16.09.2019 and consequential impugned order in Na.Ka.NO.5917/Ka5/2018 dated 11.01.2021 and quash the same and for a direction to the respondents to reimburse the Medical Expenses of Rs.1,93,952/- incurred by the petitioner, for taking Medical treatment with accrued interest.

2. The petitioner has taken a Medical Insurance, bearing Number PWD/01/PM340/NHIS16/2000043. On 05.10.2018, he felt heavy pain in his right shoulder during his sleep and his family doctor advised him to take MRI scan and after seeing the MRI scan report, which was received on 06.10.2018, the doctor advised him to consult an Ortho doctor. At his advise, on 06.10.2018 he contacted one Dr.Ajith Inigo MS, Ortho, who conducts Arthroscopic Repair of Ligaments Surgery (which is covered under the NHIS Scheme 2016 as serial No.13(d)) in the list of diseases in Annexure II. After examining the petitioner and verifying the reports, the Doctor advised him to undergo an Arthroscopic surgery at the earliest, since the condition of the shoulder is in such a stage. Therefore, he was admitted in the Rhock Hospital on 07.10.2018 and the surgery about the Arthroscopic Repair of Ligaments for his right shoulder has been done on 08.10.2018 and he was discharged from the hospital on 12.10.2018. The total expenses incurred by the petitioner for the said surgery is Rs.1,93,952/- and he paid the same to the hospital, as the hospital is a non-Network hospital. The petitioner made a representation to the fourth respondent on 27.10.2018 and requested reimbursement of Rs.1,93,952/-. The fourth respondent rejected his request and refused to provide medical reimbursement on the ground that Rhock Hospital, Tirunelveli is a Non Network Hospital and hence, not recommended for medical reimbursement.

3.Again, on 09.12.2019 the petitioner sent a representation to the fourth respondent to consider his claim for reimbursement in the light of the similar orders passed by this Court in W.P(MD) No.13429 of 2013, dated 28.05.2019. However, that was also rejected by the fourth respondent on 11.01.2021 mentioning the very same reason. In the circumstances, the petitioner has come out with the present writ petition and prayed for setting aside



the orders of the fourth respondent and for a direction to the respondents for reimbursement of medical expenses of Rs.1,93,952/- incurred by the petitioner, for treatment together with accrued interest.

4. 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 in the non-network hospital, as the petitioner had to undergo Arthroscopic Repair of Ligaments Surgery on emergency basis. He 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.

5. The learned counsel appearing for the respondents contended that the petitioner is residing at Tirunelveli and knowing fully well that Rhock Hospital, Tirunelveli, is a non-network hospital and took treatment therein. 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 first respondent is liable to pay the medical expenses, if only, the treatment taken in a network hospital approved by the first respondent. If treatment is taken in a non-network hospital, the first respondent is 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.

6. Heard the learned counsel appearing for the petitioner and Mr.C.M.Mari Chellaiah Prabhu, learned Additional Government Pleader appearing for the respondents.

7. From the materials on record, it is seen that in an emergency, the petitioner had underwent Arthroscopic Repair of Ligaments Surgery in Rhock Hospital, Tirunelveli, which is a non-network hospital. 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 Additional Government Pleader contended that in the policy, it has been held that the fourth respondent is 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 fourth respondent is 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. In view of the Judgment of the Division Bench relied on by the 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 for the medical expenses incurred by him from the respondents. In view of the same, the respondents are directed to pay the amount of medical reimbursement 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. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AE)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

am

To

1.The Secretary to Government,
Department of Health and Family Welfare,
Secretariat, Fort St. George,
Chennai-9.

2.The Secretary to Government,
Finance (Pension Department),
Secretariat, Chennai-9.



3.The District Collector,
Collectorate,
Tirunelveli District.

4.The Joint Director of Medical and Rural Health Services,
O/o.Joint Director of Medical and Rural Health Services,
Tenkasi, Tirunelveli District.

+1 CC to M/s.SPL GP (SR-16763[F] dated 20/04/2021)

+1 CC to M/s.I.PINAYGASH, Advocate (SR-16805[F] dated
21/04/2021)

W.P. (MD) No.8040 of 2021

19.04.2021

—

AV (05.05.2021) 5P 7 C