



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.06.2021

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P. (MD)No.8346 of 2021

J.R.Subramanian

... Petitioner

Vs.

1.The District Collector,
Collectorate, Madurai,
Madurai District.

2.The District Treasury Officer,
District Treasury, Collectorate Complex,
Madurai-625 020.

3.The United India Insurance Co., Ltd.,
Represented by the Divisional Manager,
Divisional Office VI, PLA Rathna Towers, 5th Floor,
No.212, Anna Salai,
Chennai-600 006.

... Respondents

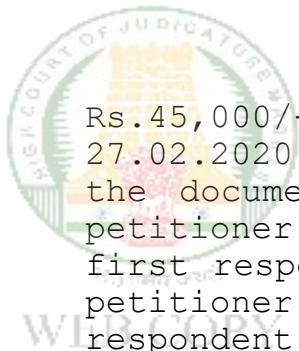
PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the Impugned Order in O.Mu.No.6291/2020/M1, dated 02.2021 signed on 26.02.2021 on the file of the second respondent and quash the same as illegal and consequently to direct the respondents to provide the medical reimbursement to the petitioner within the time stipulated by this Court.

For Petitioner	: Mr.S.Louis
For R1 & R2	: Mr.P.Subbaraj
	Government Advocate
For R3	: Mr.A.Shajahan

ORDER

The petitioner has filed this writ petition to quash the Impugned Order in O.Mu.No.6291/2020/M1, dated 02.2021, signed on 26.02.2021, passed by the second respondent as illegal and for a direction to the respondents to provide the medical reimbursement to the petitioner, within the time stipulated by this Court.

2.The petitioner was working as Textile Control Officer in Karur and retired from service on 31.08.2014. He is a member of New Health Insurance Scheme and premium amount is deducted regularly from his monthly pension. The petitioner suffered serious Urinary problem and due to emergency, he was admitted at Balaji Hospital, Anna Nagar, Madurai on 10.02.2020 and underwent surgery on 11.02.2020. He was discharged on 14.02.2020. The petitioner spent



Rs.45,000/- for medical treatment and submitted his application on 27.02.2020 for reimbursement to the second respondent enclosing all the documents. The second respondent referred the claim of the petitioner to the District Level Empowered Committee headed by the first respondent. The first respondent recommended the case of the petitioner by his proceedings, dated 05.10.2020 to the third respondent. But the third respondent returned the proposal on the ground that the petitioner has taken treatment in a non-network hospital. The second respondent in turn returned the papers to the petitioner by the impugned communication dated 26.02.2021. The petitioner has come out with the present writ petition challenging the said order of return by the second respondent.

3. The learned counsel appearing for the petitioner submitted that the petitioner suffered severe stomach pain and due to emergency, he was admitted in Balaji Hospital, Anna Nagar, Madurai and underwent surgery on 11.02.2020. This Court in a number of judgments held that claim of medical reimbursement cannot be rejected on technicality when the employee is a member of New Health Insurance Scheme, managed by the third respondent Insurance Company. Once the District Level Empowered Committee recommended the case of the petitioner, the third respondent cannot reject the same. Even if the third respondent fails to provide the medical reimbursement the State Government has to provide the medical reimbursement and prayed for setting aside the order of the second respondent.

4. Mr.P.Subbaraj, learned Government Advocate appearing for the respondents 1 & 2 and Mr.A.Shajakhan, learned counsel appearing for the third respondent submitted that a member of New Health Insurance Scheme entitled to medical reimbursement only when he takes treatment in a network hospital. As per the terms and conditions, if the member takes treatment in a non- network hospital, the third respondent Insurance Company is not liable to reimburse the medical expenses. The application of the petitioner was returned, as he has taken treatment in a non-network hospital and in such circumstances, the petitioner is not entitled to get medical reimbursement incurred by him and prayed for dismissal of the writ petition.

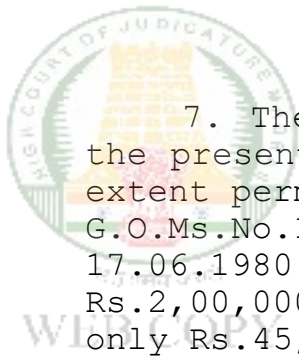
5. Heard the learned counsel appearing for the petitioner, the learned Government Advocate appearing for the respondents 1 & 2 and the learned counsel appearing for the third respondent and perused the materials available on record.

6. From the materials on record, it is seen that the petitioner is a member of New Health Insurance Scheme. The premium of said scheme for the petitioner is deducted every month from his pension. New Health Insurance is a contract between the Insurance Company, Government and employer and they are bound by terms and conditions of scheme. In turn a member of scheme also bound by the scheme. As per the scheme, the Insurance Company is liable to reimburse the medical expenses incurred only when he takes treatment in a network



hospital. When a member of the scheme takes treatment in a non network hospital due to emergency, the employee is not left with any remedy. I had an occasion to consider the issue in the writ petition in W.P(MD)No.8363 of 2021, dated 23.04.2021 and held as follows:-

"7. From the materials on record, it is seen that in an emergency, the petitioner had underwent Mitral Valve Replacement Surgery in G.Kuppusamy Naidu Memorial Hospital, Coimbatore, 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 counsel for the petitioner and the learned Special 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. 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 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."



7. The ratio in the said order is applicable to the facts of the present case. 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 the present case, the claim of the petitioner is only Rs.45,000/-.

8. Accordingly, the impugned order of the second respondent in O.Mu.No.6291/2020/M1, dated 02.2021 is set aside. The petitioner is directed to resubmit the application along with relevant documents to the respondents 1 & 2 within a period of two weeks from the date of receipt of a copy of this order. On receipt of the said representation, the respondents 1 & 2 are directed to pay a sum of Rs.45,000/- as per the Tamil Nadu Medical Attendance Rules to the petitioner, within a period of four weeks thereafter.

9. With the above directions, the writ petition is allowed. No costs.

Sd/-

Assistant Registrar(CS-III)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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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 District Collector,
Collectorate, Madurai, Madurai District.

2.The District Treasury Officer,
District Tresury, Collectorate Complex,
Madurai-625 020.

+1 CC to M/s.S.LOUIS, Advocate (SR-19372[F] dated 16/06/2021)

+1 CC to M/s.SPL GP (SR-19552[F] dated 17/06/2021)

W.P. (MD)No.8346 of 2021

16.06.2021

mj (CO)

TR(24.06.2021) 4P 5C

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