



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.04.2021

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P. (MD)No.8363 of 2021

and

W.M.P(MD)No.6331 of 2021

Mrs.K.Nithyanandakumari

... Petitioner

Vs.

1.The Secretary to Government,
Government of Tamil Nadu,
Finance (Salaries) Department,
Fort St. George, Chennai-9.

2.The Senior Divisional Manager,
United India Insurance Company ltd.,
Divisional office VI,
Rathna Towers, 5th Floor,
No.212, Anna Salai,
Chennai-600 006.

3.The District Collector,
Theni District.

4.The Joint Director,
Health & Family Welfare,
Theni at Periyakulam.

... Respondents

PRAYER: Writ Petition under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order of the second respondent, dated 16.03.2020 and Sl.No.14 of the list annexed therewith rejecting petitioner's claim for medical claim communicated to the petitioner by the third respondent on 23.09.2020 and quash the same and consequently direct the respondents herein to reimburse the medical claim of Rs.3,50,000/- together with interest at the rate of 7.5% thereon to the petitioner covered by the medical records and medical bills within a reasonable time.

For Petitioner : Mr.K.Appadurai

For R1, R3 & R4 : Mr.C.Ramesh,
Special Government Pleader

For R2 : Mr.A.Shajahan



ORDER

This writ petition is filed challenging the orders of the second respondent, dated 16.03.2020 and consequently direct the respondents herein to reimburse the medical claim of Rs.3,50,000/- together with interest at the rate of 7.5% p.a., thereon to the petitioner covered by the medical records and medical bills, within a reasonable time as may be fixed by this Court.

2. Mr.C.Ramesh, learned Special Government Pleader takes notice for the respondents 1,3 & 4 and Mr.A.Shajahan, learned counsel takes notice for the second respondent. By consent of both parties, this Writ Petition is taken up for final disposal at the stage of admission itself.

3. The petitioner was working as Assistant Professor (Maths) in C.P.A.College, Bodinayakanur, Theni District. In April 2019, she suffered acute illness "Rheumatic Heart Disease, S/P CMV, S/P BMV, Severe Mitral Regurgitation, NYH A II, OLD CVA, Bronchial Asthma, due to which, she was immediately rushed to G.Kuppusamy Naidu Memorial Hospital, Coimbatore and admitted as inpatient for her treatment from 15.04.2019 to 23.04.2019. She was discharged from the hospital on 23.04.2019, incurring medical expenses to the tune of Rs.3,50,000/-. She submitted an application for medical reimbursement on 16.08.2019 to the third respondent. The third respondent, in-turn forwarded the same to the fourth respondent by communication, dated 22.08.2019, to verify the genuineness of the medical records and treatment taken by her. The fourth respondent by communication, dated 13.09.2019 summoned her with medical records and ID for verification. After the verification of records, on 30.01.2020 the fourth respondent recommended to the second respondent for medical reimbursement and the same was returned by the second respondent on 16.03.2020 on the ground that the hospital, in which treatment taken by her was a non-network hospital and the same was communicated to the petitioner on 23.09.2020.

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 by her in a non-network hospital, as the petitioner had to undergo Mitral Valve Replacement 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 Special Government Pleader appearing for the respondents 1,3 & 4 and the learned counsel appearing for the second respondent separately contended that the petitioner is residing at



Theni and knowing fully well that G.Kuppusamy Naidu Memorial Hospital, Coimbatore, 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 the learned Special Government Pleader appearing for the first respondent and the learned counsel appearing for the second respondent.

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.

8. With the above observations and direction, the writ petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (W)

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Sub Assistant Registrar(CS)

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To

1.The Government of Tamil Nadu,
Finance (Salaries) Department,
Fort St. George, Chennai-9.

2.The Senior Divisional Manager,
United India Insurance Company ltd.,
Divisional office VI,
Rathna Towers, 5th Floor,
No.212, Anna Salai,
Chennai-600 006.

3.The District Collector,
Theni District.

4.The Joint Director,
Health & Family Welfare,
Theni at Periyakulam.

+1 CC to M/s.K.APPADURAI, Advocate (SR-17297[F] dated 23/04/2021)

+1 CC to M/s.SPL GP (SR-17581[F] dated 26/04/2021)

W.P. (MD)No.8363 of 2021
23.04.2021

GS (21.05.2021) 4P 7C