



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.04.2021

CORAM:

WEB COPY

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P. (MD)No.8497 of 2021

M.Santhanamari

... Petitioner

Vs.

1. The Joint Director,
The Medical and Rural Welfare Department,
Coimbatore-641 018.

2. The Sub-Treasury Officer,
Ambasamuthiram,
Tirunelveli District.

3. The United India Insurance Company,
Divisional Office VI,
Pla Rathina Towers,
5th Floor, 212, Anna Salai,
Chennai-600 006.

4. VGM Gastro Centre,
No.2100, Trichy Road,
Coimbatore-641 005.

5. Gleneagles Global Health City,
No.439, Cheran Nagar,
Sholinganallur-Medavakkam Road,
Perumbakkam,
Chennai-600 100.

... Respondents

PRAYER: Writ Petition under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the Impugned order passed by the first respondent in Na.Ka.No.6233/K3/2020, dated 08.03.2021 and quash the same and consequently direct the first respondent to sanction the medical reimbursement amount of Rs.9,73,825/- (Rupees Nine Lakh and Seventy Three Thousand and Eight Hundred and Twenty Five only) to the petitioner.

For Petitioner : Mr.A.Rajaram

For R1 : Mr.C.Ramesh,

Special Government Pleader

: Mr.A.Shajahan



ORDER

This writ petition is filed challenging the orders of the first respondent, dated 08.03.2021 and consequently direct the first respondent herein to reimburse the medical claim of Rs.9,73,825/- to the petitioner.

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

3. The petitioner's husband was working as Inspector of Police in the Tamil Nadu Special Police 12th Battalion and controlled by the Commandant and he expired on 27.01.2019. While the petitioner's husband was working he suffered with CHRONIC LIVER DISEASE, CHILD PUGH: 13' C' MELD : 26, SUB-ACUTE BACTERIAL PERITONITIS-KLEBSIELLA PNEUMONIAE, HEPATIC ENCEPHALOPATHY- RECOVERED, HEPATO - RENAL SYNDROME, HYPERKALEMIA-DRUG INDUCED (DYTOR PLUS) HYPOTENSION-NOR-ADRENALINE WEANED OFF XEROSIS WITH PAPULAR URTICARIA WITH APJTHOUS ULCER WITH ECZEMA WITH SECONDARY INFECTION. Therefore, the petitioner admitted her husband in the fourth respondent hospital VGM Gastro Centre on 17.01.2019 and the Doctor advised her to admit her husband in the fifth respondent hospital Gleneagles Global Health City Hospital, Perumbakkam, Chennai. She admitted her husband in Gleneagles Global Health City Hospital, Chennai, on 19.01.2019 and he expired on 27.01.2019. She spent Rs.9,73,825/-. She submitted an application on 22.05.20219 before the first respondent for medical reimbursement. The first respondent returned her representation through his endorsement in Na.Ka.No.6233/K3/2020, dated 08.03.2021 on the ground that the concerned Hospital in which the petitioner's husband undergone surgery, is not in the prescribed Hospital list as per G.O.No.202, Finance (Salaries)Department, dated 30.06.2016.

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 husband in a non-network hospital, as the petitioner's husband had undergone surgery. 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.

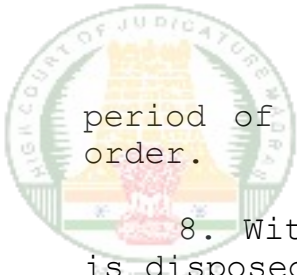
5. The learned Special Government Pleader appearing for the first respondent and the learned counsel appearing for the third respondent



respondent separately contended that the petitioner is residing at Dindigul and knowing fully well that the fifth respondent Hospital is a non-network Hospital and took treatment therein for her husband. 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 1 and 3 are liable to pay the medical expenses, only if, the treatment is taken in a network hospital approved by the first respondent. If treatment is taken in a non-network hospital, the respondents 1 and 3 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 and prayed for dismissal of the 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 third respondent.

7. From the materials on record, it is seen that in an emergency, the petitioner admitted her husband in the fifth respondent hospital, which is a non-network hospital and surgery was conducted. 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 third respondent and the learned Special Government Pleader contended that in the policy, it has been held that the third 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 for her husband in a non-network hospital and therefore, the third 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 referred to above 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 1 to 3 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 disposed of. No costs.

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Sd/-
Assistant Registrar (T&P)

// True Copy //

/ /2021
Sub Assistant Registrar(CS-)

To

1. The Joint Director,
The Medical and Rural Welfare Department,
Coimbatore-641 018.
2. The Sub-Treasury Officer,
Ambasamuthiram,
Tirunelveli District.
3. The United India Insurance Company,
Divisional Office VI,
Pla Rathina Towers,
5th Floor, 212, Anna Salai,
Chennai-600 006.

- +1 CC to Mr.A.RAJARAM, Advocate (SR-18036[F] dated 29/04/2021)
+1 CC to Mr.A.SHAJAHAN, Advocate (SR-18108[F] dated 30/04/2021)
+1 CC to Special Government Pleader (SR-18307[F] dated 30/04/2021)

W.P. (MD)No.8497 of 2021
29.04.2021

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