



WEB COPY

W.P.(MD)No.19914 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON:	19.03.2021
DELIVERED ON:	05.05.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.(MD)No.19914 of 2020
(Through Video Conference)

S.M.Vasanthi

... Petitioner

Vs.

- 1.The State of Tamil Nadu,
Represented by its Secretary,
Finance (Salaries) Department,
Fort St.George, Chennai-9.
- 2.The Director of Medical & Rural Health Services,
D.M.S. Compound,
Teynampet,
Chennai-600 006.
- 3.The District Collector,
Thoothukudi District,
Thoothukudi.
- 4.The United India Insurance Company Ltd.,
Divisional Office,
I Floor, 134, Greams Road,
Chennai-600 006.
- 5.The Joint Director,
Health and Family Welfare Department,
No.166, North Coast Road,
Tuticorin-1.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of **Certiorarified Mandamus**, calling for the records pertaining to the order passed by the fifth respondent dated 18.06.2019 in proceedings O.Mu.No.2368/Ka4/2019 and the order passed by the third respondent vide his proceedings in Na.Ka.Ke.4/8258/20 dated 09.10.2020, quash the same and consequently, direct the respondents to reimburse the medical expenses incurred by the petitioner within the time frame as fixed by this Court.



For Petitioner : Mr.R.Diwakaran
for Ms.D.Geetha
For Respondent : Mr.A.Muthukaruppan,
Nos.1,2,3 & 5 Additional Government Pleader
For Respondent : Mr.A.Shajahan
No.4

WEB COPY

O R D E R

The orders passed by the fifth respondent and the third respondent through proceedings dated 18.06.2019 and 09.10.2020 in O.Mu.No.2368/Ka4/2019 and Na.Ka.Ke.4/8258/20 respectively, are put under challenge in the present Writ Petition.

2. The brief facts of the case are as follows:-

The petitioner herein, while working as Head Mistress at Government Higher Secondary School, Ramanujampudur, Thoothukudi District, underwent for C4, C5/C5, C6 HNP with Canal Stenosis and Cord Compression at Mangala Hospital, Tirunelveli from 30.04.2019 to 02.05.2019. The petitioner had incurred medical expenses of Rs.1,27,374/- at Mangala Hospital. The petitioner herein is a member of the New Health Insurance Scheme, 2016. Her application dated 21.05.2019 made to the Joint Director of Health Services, Thoothukudi for medical reimbursement, was forwarded to the District Level Empowered Committee (DLEC) on 21.01.2020 and consequently, the DLEC had recommended reimbursement of the entire amount of Rs.1,27,374/-. Accordingly, the petitioner's application along with the recommendation of DLEC, was forwarded to the fourth respondent/Insurance Company on 08.05.2020. However, by a letter dated 18.09.2020, the Insurance Company had rejected the petitioner's application on the ground that the hospital in which the petitioner had undergone the surgery was a Non Network Hospital and that the medical diagnosis and the consequential treatment was not an emergency, in accordance with G.O.Ms.202, Finance (Salaries) Department, dated 30.06.2016. Thus, the rejection of the petitioner's application came to be communicated to the petitioner through the impugned orders dated 18.06.2019 and 09.10.2020.

3. While the learned counsel for the petitioner contended that the Insurance company has no authority to reject the decision of the DLEC, the learned counsel for the Insurance Company would submit that as per G.O.Ms.202 dated 30.06.2020 and the guidelines for the New Health Insurance Scheme, the decision of the DLEC are not binding on them and further, contended that the scheme itself is in the nature of a contract. It is his further contention that G.O.Ms.241, Finance (Salaries) Department, dated 24.08.2016 and Finance Department of the Government of Tamil Nadu letter dated 21.08.2020, had clarified that the DLEC's recommendations are not binding on the Insurance Company.



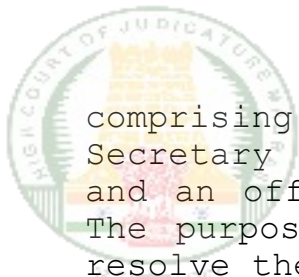
4. The crucial issue involved in the present Writ Petition is as to whether the recommendations of DLEC are binding on the Insurance Company and if not, what would be the option available to the Insurance Company to disregard DLEC's recommendations?

WEB COPY

5. It is no doubt true that the scheme of medical reimbursement is in the nature of contract between the insurer and the insured and that, claim for reimbursement requires to be strictly within the terms of the contract. As per the New Health Insurance Scheme, 2016, when a Government employee undergoes any form of medical treatment in a Network Hospital for approved medical treatments/surgeries, they shall be eligible for a cashless assistance, subject to the upper limit of medical assistance under the scheme. The coverage of medical assistance shall also be extended to emergency accident cases, even though the approved treatment/surgery is taken in a Non Network Hospital. Thus, the Scheme redresses the grievance and provides for reimbursement of payment made to a Network Hospital for eligible medical expenses and to Non Network Hospital in case of emergency care or following an accident.

6. The Scheme prescribes the procedure for reimbursement. Whenever claims relating to eligible medical expenses are made, the Grievance Redressal Officer (GRO), who is the Joint Director of the Medical and Rural Health Services Department at the respective District Headquarters, will examine such claims and recommend for reimbursement to the DLEC and such sums of money that relate to eligible medical expenses. In cases of claims, relating to Non Network Hospital, the GRO will examine such claims and render his opinion to the DLEC as to whether the claim relates to emergency care or treatment/surgery undergone following an accident, along with their report. In other words, whenever a claim relates to an eligible medical expenses, the GRO makes "recommendations" to the DLEC and for claims relating to Non Network Hospital, the GRO renders his "Opinion" to the DLEC. The DLEC shall thereafter examine the claims with reference to the "recommendations and opinions" of the GRO and approve all such sums for reimbursement pertaining to eligible medical expenses.

7. The DLEC is constituted by the Government headed by the concerned District Collector, having the Joint Director of Medical and Rural Health Services Department, the District Treasury Officer and official representative of the Insurance Company as its members. Any grievance or disputes arising against the claims of the DLEC shall lie to a State Level Empowered Committee (SLEC) constituted by the Government, headed by the Director of Treasuries and Accounts, having the Director of Medical and Rural Health Services as its Member Secretary and an official representative nominated by the Insurance Company as its member. A further appeal shall lie to the High Level Empowered Committee (HLEC) constituted by the Government,



comprising of the Secretary to the Government, Finance Department, Secretary to the Government, Health and Family Welfare Department and an official representative nominated by the Insurance Company. The purpose of provision for appeals to the SLEC from DLEC is to resolve the disputes arising out of the decisions of the DLEC.

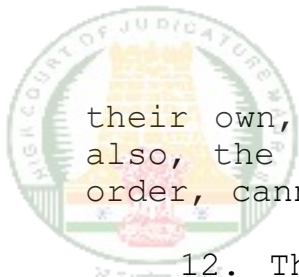
WEB COPY

8. In the present case in hand, the Insurance Company have taken a stand that such recommendations of the DLEC are not binding on them and they are at liberty to disregard or reject the decision of the DLEC. Such a rejection has been made by the Insurance Company on 18.09.2020.

9. I am not in agreement with the understanding of the Insurance Company with regard to the binding effect of DLEC's decisions. When the Scheme provides for a mechanism of redressal of grievances and reimbursement of payments through the DLEC, in which the official representative of the Insurance Company is also a member, an official of the Insurance Company will not have the authority to disregard such decisions of the DLEC. If the stand of the Insurance Company in this regard is to be accepted, the very provision for a redressal mechanism through the DLEC would become redundant and will also amount to unfettered powers being conferred on the Insurance Company, which may possibly result in abuse of powers.

10. Furthermore, when the Scheme provides for an appeal remedy to the SLEC from the decisions of the DLEC, all grievances or disputes arising out of the DLEC decisions could be addressed only to the Appellate Authority. Thus, there is absolutely no justification on the part of the Insurance Company to disregard the DLEC's decisions. As a matter of fact, further appeal to the HLEC is also provided under the Scheme. Hence, it eventually follows that whenever the Insurance Company are of the view that the decision of the DLEC with regard to the claim is illegal or otherwise not sanctionable, the only course open to the Insurance Company is to approach the SLEC, by way of an appeal.

11. There is yet another aspect of the matter. The official of the Insurance Company, usually, at the level of a Divisional Manager, has rejected the claim approved by the DLEC by citing that the diagnosis and the line of management for the medical aid taken by the petitioner is not an emergency. As stated earlier, the petitioner was admitted with the diagnosis C4, C5/C5, C6 HNP Canal Stenosis and Cord Compression and underwent Titanium Cage Fusion in a Non Network Hospital. The decision as to whether such a medical treatment and surgery was an emergency or not, requires to be certified only by a medical expert in the concerned Speciality and not by a Divisional Manager of an Insurance Company, who has apparently rejected the orders of the DLEC, without obtaining any such medical expert opinion. There is no provision under the Scheme



their own, without the aid of an expert's opinion. On this ground also, the decision of the Insurance Company to disregard the DLEC's order, cannot be sustained.

12. The learned counsel for the petitioner attempted to place reliance on G.O.Ms.241, Finance (Salaries) Department dated 24.08.2016, as well as the Government Letter No.37012/Finance (Salaries)/2019-2, dated 21.08.2020, issued by the Finance Department and submitted that the decisions of the DLEC are not binding on them. Such a submission seems to be misconstrued. Through G.O.Ms.No.241, Finance (Salaries) Department dated 24.08.2016, the Government had directed the DLEC and SLEC to examine the grievances of the Government employees/pensioners, within the ambit of the Government Orders and desist from recommending reimbursement of medical expenses against various Government Orders was, as to avoid unnecessary litigations against the Government. The learned counsel for the Insurance Company had placed reliance on a portion of the narration of the Government Order, which states that it is not mandatory on the part of the Insurance Company to reimburse medical expenses inadmissible under the New Health Insurance Scheme. Such a narration in the Government Order, which is not an operative portion of the order, was made in continuation of the observations therein, that DLEC has been recommending reimbursement of medical expenses for unapproved treatments/surgeries in Non Network Hospitals, when the agreement executed between the Government and the Insurance Company has no provision for such reimbursement of unapproved treatments. The Government Order does not anywhere provide that the orders of the DLEC can be violated or disregarded by the Insurance Company. Nor does it confer powers on the Insurance Company to reject the DLEC's orders. Likewise, in the letter dated 21.08.2020 relied upon by the learned counsel for the Insurance Company, no such powers have been conferred on the Insurance Company. As a matter of fact, the letter dated 21.08.2020 is only in the form of instructions to the District Collector, to strictly adhere to the guidelines of the New Health Insurance Scheme. It would not be out of place to mention here that this letter dated 21.08.2020 of the Finance Department, cannot override either the Scheme or the Government orders prescribing the guidelines for the New Health Insurance Scheme.

13. Thus, when the Scheme provides for redressal grievance mechanism through the DLEC, appeal provisions to the SLEC and HLEC and when the Scheme or Government Orders does not empower the Insurance Company to disregard the DLEC's decisions, the present impugned order rejecting the petitioner's claim, which was pursuant to the DLEC's recommendations, cannot be sustained.

14. For all the foregoing reasons, the impugned order passed by the fifth respondent dated 18.06.2019 and the consequential order of the third respondent dated 09.10.2020 stands quashed. Consequently, a direction to the respondents to reimburse the



medical expenses of Rs.1,27,374/- to the petitioner forthwith, in any event, within a period of four weeks from the date of receipt of a copy of this order. The Writ Petition stands allowed accordingly.

Sd/-

Assistant Registrar(AD-II)

//True copy//

/ /2021

Sub Assistant Registrar

DP

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 Secretary,
State of Tamil Nadu,
Finance (Salaries) Department,
Fort St.George, Chennai-9.
- 2.The Director of Medical & Rural Health Services,
D.M.S. Compound,
Teynampet, Chennai-600 006.
- 3.The District Collector,
Thoothukudi District, Thoothukudi.
- 4.The United India Insurance Company Ltd.,
Divisional Office,
I Floor, 134, Greaves Road,
Chennai-600 006.
- 5.The Joint Director,
Health and Family Welfare Department,
No.166, North Coast Road, Tuticorin-1.

+1 CC to Mr.A.SHAJAHAN, Advocate (SR-18477[F] dated 05/05/2021)

Pre-Delivery of Order made in

W.P. (MD)No.19914 of 2020

Dated:05.05.2021

SSS (CO)

SRS/02.06.2021/6P/7C

<https://hcservices.ecourts.gov.in/hcservices/>