



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **30.11.2021**

CORAM:

THE HONOURABLE **DR.JUSTICE ANITA SUMANTH**

W.P. (MD)Nos.12639 & 12672 of 2018

W.M.P. (MD).No.11540 of 2018

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P.Meenakshi ...Petitioner in W.P. (MD) .No.12672 of 2018

A.Arivazhahi ...Petitioner in W.P. (MD) .No.12639 of 2018

/Vs./

1.The Government of Tamil Nadu,
Rep.by its Special Secretary of
Finance (Salaries) Department,
Fort St.George, Chennai.

2.The Director of Treasuries & Accounts,
Chennai.

3.The Divisional Manager,
United India Insurance Company Limited,
Divisional Office, Vth Floor,
P.L.A.Rathna Towers,
212, Anna Salai,
Chennai-6.

...Respondents in both petitions

PRAYER in W.P. (MD).No.12672 of 2018:- Writ Petition - filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, to direct the respondents to reimburse the medical expenses of Rs.83,925/- incurred by the petitioner for taking medical treatment to her son by name Ilamukilan at Balaji Kidney Centre, Madurai.

PRAYER in W.P. (MD).No.12639 of 2018:- Writ Petition - filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the impugned letter issued by the third respondent dated 21.05.2018 and quash the same and consequently direct the respondents to reimburse the medical expenses of Rs.48,000/- incurred by the petitioner for taking medical treatment to the petitioner's husband at Srinivasa Hospital, Madurai.

In both petitions

For Petitioner

: Mr.S.Ramasamy

For R1 & R2

: Mr.K.S.Selvaganesan

Additional Government Pleader

For R3

: Mr.A.Shajahan



COMMON ORDER

The petitioner in W.P.(MD).No.12672 of 2018 is employed as a Teacher in the Government High School and she has subscribed to New Health Insurance Scheme (NHIS) under the aegis of the Government of Tamil Nadu. Her son had suffered an ailment by the name of 'Diffuse Hypoechoic and Linear Striae Disease' and he was advised surgery.

2. He was admitted to the Balaji Kidney Centre at Anna Nagar, Madurai on 25.02.2018 and underwent surgery as well as subsequent treatment. He was discharged on 02.03.2018. The petitioner states that she incurred medical expenses of an amount of Rs.83,925/- in this regard.

3. She had claimed reimbursement of the same before the Director of Treasuries and Accounts/R2 and the Divisional Manager, United India Insurance Company Limited/R3 but, she has not received any response from them. Hence this writ petition.

4. She would justify the fact that she was unable to obtain any pre-authorisation stating that the ailment and treatment advised was emergency in nature and hence, the question of obtaining any pre-authorisation would not arise in such case. She seeks a Mandamus directing the respondents to reimburse the medical expenses incurred by her as above.

5. I had sought certain clarifications in regard to the implementation of the New Health Insurance Scheme (NHIS) and based upon the clarifications provided by the respondents, my understanding of the Scheme and its modus operandi is as follows:

(a) The New Health Insurance Scheme is revised once in every four years.

(b) The scheme that would apply to the petitioner would be 2016 scheme.

(c) Though the procedure for implementation of the 2016 scheme is set out in terms of G.O.Ms.No.202, Finance (Salaries) Department, dated 30.06.2016, G.O.Ms.No.160, Finance (Salaries) Department, dated 29.06.2021 is far more detailed, insofar as it contains certain guidelines as Annexure-A to the Government Order itself, which sets out the minute procedure to be followed by those claiming the benefits of this scheme.

(d) Claims are received by the Grievance Redressal Officer (GRO), who is part of the Committee defined in terms of Clause (4) (p) of the guidelines. The GRO is part and parcel of the District Level Empowered Committee and reimbursement as claimed, would be considered pursuant to his verification as well as the grant of approval by the State or High Level Empowered Committees.



6. The present case falls under the category of treatment availed in a non-network hospital for non-emergency care. However, it appears to be a consistent stand taken in several matters by this Court that no claim shall be rejected merely on the reason of treatment having been availed in a non-network hospital. The benefit of this settled position would enure to the petitioner herein as well.

7. As regards the requirement for pre-authorisation, that certainly would not arise in a case such as the present one, where the treatment is availed on an emergency basis.

8. While the Mandamus as sought for by the petitioner is not liable to be granted, the petitioner is granted liberty to place her grievances by way of claim before the GRO. Such claim, once received by the GRO, shall be processed and a speaking order be passed by the District Level Empowered Committee within a period of four weeks from date of receipt of the claim. W.P.(MD).No.12672 of 2018 stands disposed in the aforesaid terms. No costs.

9. As far as W.P.(MD).No.12639 of 2018 is concerned, the petitioner was working as Head Master in the Government High School and she had subscribed to the New Health Insurance Scheme (NHIS). The petitioner's husband was affected by Major Depressive Disorder Disease and admitted in Srinivasa Hospital at Madurai.

10. He was under continuous treatment and discharged on 16.03.2018, whereupon, she claimed reimbursement of the medical expenses incurred by her of an amount of Rs.48,000/-. The claim was made before the Insurance Company arrayed as R3 and it had come to be rejected by R3 on the ground that the treatment availed was at a non-network hospital and also on the basis that no pre-authorisation was issued in the matter.

11. The order passed in W.P.(MD).No.12672 of 2018 would apply equally to the present case as well, specifically the contents of, and directions as issued in paragraph 8 above. The impugned order is quashed and W.P.(MD).No.12639 of 2018 is ordered in the aforesaid terms. No costs. Connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(Records)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

ssb



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To

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

2.The Director of Treasuries & Accounts,
Chennai.

3.The Divisional Manager,
United India Insurance Company Limited,
Divisional Office,
Vth Floor, P.L.A.Rathna Towers,
212, Anna Salai, Chennai-6.

+1 CC to M/s.SPL GP (SR-36747[F] dated 01/12/2021)

+1 CC to M/s.S.RAMASAMY, Advocate (SR-37069[F] dated 02/12/2021)

+1 CC to M/s.A, SHAJAHAN, Advocate (SR-36566[F] dated 30/11/2021)

Order made in
W.P. (MD) Nos.12639 & 12672 of 2018
Dated:30.11.2021

sk(CO)

TR(04.02.2022) 4P 7C