



W.P.No.3839 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.11.2022

CORAM

THE HONOURABLE Mrs. JUSTICE J.NISHA BANU

W.P.No.3839 2013

H.Selvaraj

.... Petitioner

VS

1. Special Secretary,
Government of Tamil Nadu,
Finance (Salaries) Department,
Secretariat,
Chennai-600 009.
2. The Principal Secretary,
Commissioner of Treasuries and Accounts,
Saidapet, Chennai-600 015.
3. The Joint Director of Medical and Rural Health Services,
Kanyakumari at Nagercoil.
4. The General Manager,
Tamil Nadu State Transport Corporation,
Nagercoil Division,
Nagercoil, K.K.District.
5. NIMS HEART FOUNDATION,
Noorul Islam Institute of Medical Science (NIMS),
& Research Foundation, NIMS Medicity,
Aralummoodu, Neyyattinkara,
Thiruvananthapuram-695 123.
6. The Assistant Vice President,
Star Health and Allied Insurance Co Ltd.,
Tamil Nadu Government Employees,
New Health Insurance Scheme,
Old No.64-A, New No.2A, Ganga Nagar Road,
(Opposite to BSNL Office), Kodambakkam,
Chennai-600 034

.... Respondents



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Writ Petition filed under Article 226 of the Constitution to issue a Writ of Certiorarified Mandamus to call for the records of the file of the 6th respondent culminated in rejection order in Ref:File No.R-2924/2 dated 05.02.2010 and to quash the same and direct the respondents 1,3 and 6 to reimburse either jointly or severally, the said sum of Rs.1,19,079/- (Rs.1,04,079/- being medical bills + Rs.15,000/- being attendant charges) together with interest at 12% within a reasonable time.

For Petitioner : Mr.C.Johnson

For respondents : Mr.G.Velu
AGP
For R.1
Mr.V.Ravi
Spl.G.P.
For R.2
Mr.A.M.Ayyadurai
For R.3
Mr.A.Sundaravadhanan
For R.4
No appearance - R.5
Mr.S.N.Vijayaraghavan
For R.6

O R D E R

This writ petition has been filed challenging the order of the 6th respondent dated 05.02.2010 rejecting the claim of the petitioner for reimbursement of medical expenses incurred by him.

2. The petitioner herein had taken treatment at NIMS (Noorul Islam Institute of Medical Science) Heart Foundation, Neyyattinkara, Thiruvananthapuram - 695 123, as he was diagnosed with 'IHD acute AWM analysed Impaired L.V. function' and underwent treatment for



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"Coronary Angiography" between 20.11.2009 till 23.11.2009. He had incurred medical expenditure of Rs.1,04,079/-. The petitioner had also spent from his pocket a sum of Rs.15,000/- towards attendant charges and other charges. Therefore, the petitioner has claimed a total sum of Rs.1,19,079/- from the respondents for reimbursement towards medical expenses through his representation dated 20.03.2010 which was not considered. The petitioner has also sent another representation to the respondents dated 25.10.2012 which was also not considered. Hence, the present writ petition has been filed.

3. In the counter affidavit filed by the 6th respondent herein, it is stated that the petitioner had taken treatment in a non-network hospital which is not notified by the 6th respondent under the Tamil Nadu Health Insurance Scheme as per G.O.Ms.No.174 Finance (Salaries) Department dated 28.04.2008 and that the said Scheme operates only on cashless basis and reimbursement is not permitted and claiming reimbursement of medical expenses as against the insurer is not payable under the Scheme.

4. The denial of medical reimbursement for non-scheduled medical ailments and treatment at non-network hospital has been struck down by this Court in various decisions including the order passed in the case of [D.Senthil Kumari vs. The Divisional Manager](#), the United India Insurance Company Limited, Chennai, and others in WP(MD)No.1180 of 2020 dated 28.02.2020. The relevant portion of the order reads as follows:



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"3. When this Court had directed the respondents to disburse the eligible amount to the petitioner with interest, through its order dated 29.11.2017, there is no justification on the part of the respondents to keep the claim pending, even after expiry of the time stipulated by this Court. As a matter of fact, the conduct on the part of the respondents could be regarded as a disobedience of the Court's order, which could amount to contempt of the Court orders. However, by way of extending a last and final opportunity, this Court is of the view that if further time could be extended for complying with the order of this Court dated 29.11.2017 passed in W.P.(MD)No. 5738 of 2017, the ends of justice could be secured.

4. In view of the above observations, there shall be a direction to the fifth respondent to consider the petitioner's representation dated 29.08.2018 and consequently, disburse the eligible amount to the petitioner together with interest at the rate of 9% from the date of the claim till the date of actual disbursement, atleast, within a period of four (4) weeks from the date of receipt of a copy of this order. The Writ Petition stands ordered accordingly. There shall be no order as to costs."

4. In identical circumstances, this Court, in the case of *M.Kavitha Vs The State of Tamil Nadu, Finance (Salaries) Department and others*, passed in W.P.(MD) No.2540 of 2020 dated 28.02.2020, had held that, rejection of a claim for reimbursement, on the ground that the treatment taken in a Non-network hospital, cannot be sustained. The relevant portion of the order reads as follows:-



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6. It is clear from the above judgment that the medical reimbursement cannot be rejected merely on the ground that the operation was done in a hospital which does not form part of the scheme. This Court had directed the medical reimbursement to be made by setting aside the order. The above judgment will clearly apply to the facts of the present case also.'

5. In the light of the above observations, the Writ Petition stands allowed. The impugned order dated 05.02.2010 passed by the sixth respondent is quashed. Consequently, there shall be a direction to the respondents herein to consider the petitioner's representation dated 25.10.2012 and consequently, disburse the eligible medical expenses incurred by the petitioner, while taking medical treatment at NIMS (Noorul Islam Institute of Medical Science) Heart Foundation, Neyyattinkara, Thiruvananthapuram - 695 123, together with interest at the rate of 9% from the date of the claim till the date of actual disbursement, within a period of four (4) weeks from the date of receipt of a copy of this order. No costs.

16.11.2022

Index:Yes/No

Speaking/Non-speaking order

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J.NISHA BANU,J.

Vsi

To

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Chennai-600 009.
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