BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 28.02.2022
CORAM
THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.(MD) No.691 of 2021
and W.M.P.(MD) No.577 of 2021

R.Muthuraj ... Petitioner

-vs-

1.The Authorized Officer,
MD India Health Insurance TPA Pvt Ltd.,
New Door No.443 & 445,
Old Door No.304 & 305,
Guna Complex, Anna Salai,
Teynampet, Chennai-600 018.

2.The Medical Director,
Velammal Medical College Hospital
and Research Institute,
Velammal Village,
Madurai-Tuticorin Ring Road,
Anuppanadi, Madurai District.

3.The Secretary,
Finance (Pension) Department,
St. George Fort, Chennai. ... Respondents

Prayer:- Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus to call for the records of the 1st respondent under the denial of additional authorization letter dated 05.11.2020 and quash the same as erroneous, illegal and directing the 1st respondent to sanction petitioner's additional medical claim amount of Rs.1,42,385/- as per the G.O.Ms.No.222, Finance (Pension) Department, dated 30.06.2018 issued by the Tamil Nadu Government under his policy number 010600/28/181P104512726, Emp Code: R1515714 within a time frame as may be fixed by this Court.

For Petitioner : Mr.M.Ponniah

For R1 : Mr.A.Shajahan

For R3 : Mr.A.K.Manikkam,
Special Government Pleader

For R2 : No appearance

O R D E R

The denial of additional authorization letter dated 05.11.2020 is sought to be quashed in the present writ petition. The petitioner seeks further direction to sanction additional medical claim amount of Rs.1,42,385/- as per G.O.Ms.No.222, Finance (Pension) Department, dated 30.06.2018 issued by the Government of Tamil Nadu under the policy number of the writ petitioner.

2.The petitioner states that he is a retired employee of Public Works Department and a pensioner. He is a member of the New Health Insurance Scheme and therefore, eligible to get medical reimbursement as per the guidelines issued by the Government in G.O.Ms.No.222, Finance (Pension) Department, dated 30.06.2018.

3.The grievance of the writ petitioner is that the medical reimbursement claim initially submitted by the petitioner was settled to the tune of Rs.1,35,000/-. However, as per the scheme, the petitioner is eligible to get a sum of Rs.4,00,000/-. Therefore, he submitted additional medical claim to settle a sum of Rs.1,42,385/- as per the medical treatment taken and the bills submitted by the writ petitioner.

4.The learned counsel for the petitioner states that the order of rejection is not in accordance with the Government Policy in view of the fact that the petitioner is eligible to get the medical reimbursement to the tune of Rs.4,00,000/- and the first settlement was made in respect of the treatment taken, which is a sum of Rs.1,35,000/-. This being the factum, the additional medical claim is also to be settled in favour of the writ petitioner.

5.With reference to the facts and circumstances, it is relevant to consider G.O.Ms.No.222, Finance (Pension) Department, dated 30.06.2018. The said G.O., provides medical aid under New Health Insurance Scheme, 2018, for pensioners (including Spouse)/ family pensioners.

6.As per the guidelines issued for implementation of New Health Insurance Scheme, 2018, the emergency care has been enumerated in Para 4(1)(k) which states that "Emergency Care means management for an illness or injury which results in symptoms which occur suddenly and unexpectedly, and requires immediate care by a medical practitioner to prevent death or serious long term impairment of the insured person's health".

7.The very same G.O.Ms.No.222, contemplates for medical reimbursement in respect of the treatment taken in Non-network

hospitals. Para 11(2) of the said G.O., reads as under:

"***11(2)Non-Network Hospital Claims:***

Eligible Medical Expenses incurred in Non-Network Hospital during Hospitalization for Emergency Care or following an Accident by the Beneficiary shall be reimbursed by the Insurance Company subject to the Ceiling Criteria upon submission of claim by the Beneficiary or his/her legal heirs to the Grievance Redressal Officer as listed in the Annexure-V to these guidelines and the approval of the District Level Empowered Committee or State Level Empowered Committee or High Level Empowered Committee. The amounts that can be claimed for reimbursement will be limited to package rates as notified by Government on the recommendations of the Accredition Committee as per the process stated in clause 15 of these guidelines."

8.This Court is of the considered opinion that medical reimbursement claims are to be settled in accordance with the guidelines issued for implementation of New Health Insurance Scheme, 2018 for pensioners (including spouse/family pensioners). As per the scheme, the applicants are eligible for medical reimbursement and the conditions stipulated are also to be fulfilled with reference to the medical records and documents to be produced by the applicants.

9.The learned Special Government Pleader in the present case made a submission that if at all the additional claim bill has not been settled, then the aggrieved person has to approach the State Level Empowered Committee for the purpose of establishing his case.

10.This Court is of the considered opinion that on account of growing medical treatments for varieties of diseases, the pensioners have to establish the nature of claim made, eligibility and the emergency care provided etc., before the competent authorities. Court is not an expert body so as to assess the medical emergencies and the nature of treatment as well as the technicalities involved in such treatments. Therefore, District Level Empowered Committee, State Level Empowered Committee and High Level Empowered Committee are constituted by the Government for the purpose of settling the medical reimbursement claim under the New Health Insurance Scheme, 2018 more specifically for pensioners.

11.Medical facility and a decent treatment is an integral part of Article 21 of the Constitution of India. Large number of pensioners, spouse of the pensioners, family pensioners are taking treatments in several hospitals across the State of Tamil Nadu. All

those pensioners, family pensioners, spouse of the pensioners are the members of the medical Health Insurance Scheme and their claims are to be settled in accordance with the guidelines issued for implementation of the scheme. Certain medical records, nature of treatment taken, emergency care involved in such treatments are to be verified by the Competent Committee consists of Doctors and certainly not by the High Court. It is not as if based on the mere application, the Court can issue direction to settle the medical reimbursement claim. One aspect is to verify the eligibility of the claim and the quantum of claim to be settled with reference to the nature of treatments which all are provided under the Government Policy. Therefore, the policy of the Government is to be implemented in consonance with the terms and conditions stipulated.

12.In the present case, admittedly, the petitioner is an eligible member and the first medical claim of Rs.1,35,000/- had already been settled. The additional medical claim was rejected and if at all the petitioner is aggrieved from and out of such decision with reference to the medical treatment taken, he has to approach the State Level Empowered Committee and High Level Empowered Committee for the purpose of redressal of his grievances. The appeal to the State Level Empowered Committee is of paramount importance in view of the fact that there is an opportunity even for the petitioner to establish his case and for scrutinization of the medical records and to approve the medical claims in consonance with the terms and conditions of the scheme. Such an opportunity need not be taken away by the High Court. Further, in the event of not considering the case by the State Level Empowered Committee, High Court will not be in a position to exercise the power of judicial review in an effective manner.

13.Disputed facts are to be adjudicated before the Competent Committee more specifically, medical records are to be verified by the expert Doctors for the purpose of forming an opinion regarding the eligibility and the quantum of amount to be settled under the scheme. These being the various aspects to be considered by the Courts, this Court is of the opinion that all the persons, who all are aggrieved from and out of the decision of the District Level Empowered Committee, are bound to approach the State Level Empowered Committee for reviewing the decision taken by the District Level Empowered Committee with reference to the medical records and other documents produced by the applicants. The importance of the remedial measures provided under the scheme, at no circumstances, be undermined by the High Courts. Such remedial measures are provided by constituting District Level Empowered Committee and State Level Empowered Committee with an idea to redress the grievances of the pensioners, family pensioners, etc. Therefore, in the absence of examination by these Empowered Committees, the Court will not be in a position to effectively decide the issues more specifically on

disputed facts. Therefore, the petitioner, in this case, is at liberty to approach the State Level Empowered Committee under the policy scheme in G.O.Ms.No.222 dated 30.06.2018 for the purpose of settlement of his additional medical claim with reference to the medical records. In the event of filing any such appeal before the State Level Empowered Committee, the Committee has to decide the appeal as expeditiously as possible in view of the fact that these pensioners are already over age and long pendency of the cases would cause hardship to the members of the Health Insurance Scheme.

14.With the above liberty, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Deputy Registrar (LA & MC)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

abr

To

1.The Secretary,
Finance (Pension) Department,
St. George Fort, Chennai.

+1 CC to M/s.M.PONNIAH, Advocate (SR-9331[F] dated 01/03/2022)

+1 CC to M/s.SPL GP (SR-9246[F] dated 01/03/2022)

W.P.(MD) No.691 of 2021
28.02.2022

MGJ(16.03.2022) 5P 4C