



W.P.(MD)No.2454 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.08.2022

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THE HONOURABLE MR. JUSTICE M.S.RAMESH

W.P.(MD).No.2454 of 2021

and

W.M.P(MD)Nos.2043 and 2044 of 2021

M.Mercy Ramani Bai

... Petitioner

/Vs./

- 1.The State of Tamil Nadu,
Rep., by its Secretary,
The Department of Finance (Salaries),
Fort St.George, Chennai 600 009.
- 2.The District Collector,
Tenkasi, Tenkasi District.
- 3.The Superintendent of Police,
Tenkasi, Tenkasi District.
- 4.The Superintendent of Police,
Tirunelveli, Tirunelveli District.
- 5.The Joint Director of Health Service,
Tirunelveli District,
Tenkasi 627 811.
- 6.The Divisional Manager,
United India Insurance Company Limited,
Divisional Office VI,
No.212, Pala Rathna Towers, 5th Floor,
Anna Salai, Chennai 600 006.

...Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned proceedings issued by the fifth respondent Joint Director of Health service in Na.Ka.No.5917/K5/2018, dated ...01.2020 and consequently proceedings issued by the fourth respondent Superintendent of Police in Na.Ka.No.J2/38425/2019, dated 26.02.2020, quash the same and further direct the respondents herein to reimburse the medical expenses to the tune of Rs.5,45,165/- to the petitioner towards the treatment undergone for paralysis at Kims Hospital, Trivandum, State of Kerala with interest.

For Petitioner : Mr.T.Cibi Chakraborty
For Respondents : Mr.G.Suriyananth (for R1 to R5)
Additional Government Pleader
Mr.A.Shajahan (for R6)

ORDER

The petitioner, is a member of the New Health Insurance Scheme, which introduced for Government Employees and Pensioners and she had taken treatment at Kims Hospital, Kerala, for Paralysis.

2.The petitioner's claim for medical reimbursement was referred to the District Level Empowered Committee (hereinafter referred to as “DLEC” for brevity), which is the Committee constituted by the Government headed by the



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District Collector, having the Joint Director of Medical and Rural Health Services Department, the District Treasury Officer and an official representative of the Insurance Company as members. and it was rejected by the DLEC, which was communicated through the impugned order, dated --.01.2020, stating that the petitioner had not taken treatment in a network hospital.

3.The issue as to whether the medical reimbursement can be rejected on the ground that the treatment was not taken in network hospital or that the ailment/treatment/surgery was not scheduled one, has already been dealt with in various decisions of this Court, whereby it has been held that such rejection on the ground of non-network hospital or non-scheduled ailment/treatment/surgery cannot be a ground for rejection.

4.The next question that arises for consideration is that who would be liable to reimburse the medi-claim raised by the petitioner herein. The Government, in G.O.Ms.No.423, Health and Family Welfare (Z1) Department, 22.06.1995 had ordered that whenever the hospital is not covered or the treatment is not enlisted under the New Health Insurance Scheme, the Government Employees and the pensioners would be entitled to make the medi-claim with the Government under the Tamil Nadu Medical Attendance Rules



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(hereinafter referred to as “the Rules” for brevity) for reimbursement. The rates fixed by the Government under the Rules have also been revised subsequently in G.O.Ms.No.401, Health and Family Welfare (Z1) Department, dated 09.09.2021, by making a reference to their liability, under G.O.Ms.No.423, Health and Family Welfare (Z1) Department, dated 22.06.1995.

5.Thus, when the ailment/treatment/surgery undertaken by the Government Employees and Pensioners either not in one of the network hospitals or it is not scheduled one, the State Government would be liable to reimburse the eligible claim of such Government Employees and Pensioners, in accordance with the rates prescribed under the Rules.

6.In the light of the aforesaid Government Orders, the impugned order of rejection by the DLEC and the consequential rejection of the fourth respondent cannot be sustained. On the other hand, DLEC ought to have held that the Government Employee / Pensioner would be entitled for reimbursement from the State Government, in accordance with the rates prescribed under the Rules.

7.Accordingly, the impugned order of DLEC dated --.01.2020 and the consequential order, dated 26.02.2020, on the file of the fourth respondent, are



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hereby quashed and there shall be a direction to the respondents 1 to 5, to reimburse the eligible amount for the medical expenses incurred for the treatment undergone by the petitioner, within a period of four (4) weeks from the date of receipt of a copy of this order. This Writ Petition is allowed accordingly. There shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

17.08.2022

Index : Yes / No
Internet : Yes/ No
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To:

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The Department of Finance (Salaries)
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M.S.RAMESH, J.

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