BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.02.2022

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.(MD) No.2637 of 2022

T.Periakathan ... Petitioner

-vs-

1. The Secretary to Government,
   Finance (Pension) Department,
   Secretariat, Chennai-600 009.

2. The Commissioner of Treasuries and Accounts,
   Integrated Finance Complex,
   No.571, Anna Salai, Nandanam,
   Chennai-600 035.

3. The Divisional Manager,
   United India Insurance & Co Ltd,
   PLA Rathina Towers, 5th Floor,
   212, Anna Salai, Chennai-600 006.

4. The Treasury Officer,
   District Treasury,
   Dindigul-624 001. ... 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 second respondent i.e., the Commissioner of Treasuries and Accounts, Chennai in his Rc.No.22963/NHIC-3/2021 dated 16.12.2021 and quash the same in respect of S.No.11 alone and consequently direct the first respondent i.e., the Secretary to Government, Finance (Pension) Department, Chennai to sanction the eligible amount to the petitioner under Medical Attendance Rules since the claim of the petitioner cannot be rejected on the only ground that the Hospital in which the petitioner undergone treatment is Non-network hospital particularly after issuance of G.O Ms.No.280, Finance (Salaries) Department dated 24.06.2020, within a specified time frame that may be fixed by this Court.

For Petitioner : Mr.S.Visvalingam

For RR1, 2 & 4 : Mr.N.Satheesh Kumar
Additional Government Pleader

For R3 : Mr.A.Shajahan

O R D E R

The order of rejection dated 16.12.2021, rejecting the claim of the writ petitioner for medical reimbursement is under challenge in the present writ petition.

2.The petitioner states that he served as Deputy Registrar of Cooperative Societies and retired from service on 31.01.2006. The petitioner is a member of the New Health Insurance Scheme, 2014 and eligible to get medical reimbursement. The wife of the writ petitioner, Smt.Banumathy was admitted in the Annai Sigichai Maiyam, Dindigul, as she was suffering from COVID-19 infection. She took treatment for a period of 7 days and the petitioner incurred an expenditure of Rs.1,86,126/-. The petitioner submitted an application for reimbursement and the said application was rejected on the ground that "Non Critical nature and Treatment taken in Non-network Hospital". Thus, the petitioner is constrained to move the present writ petition.

3.An attention to the Government Policy in medical reimbursement issued in G.O.(Ms) No.280, Finance (Salaries) Department, dated 24.06.2020 is solicited. As per the said G.O.(Ms) No.280, COVID-19 treatments are included in the new packages both for critical and non-critical care. As per the Government Order in respect of critical care, the eligibility is fixed, so also for non-critical COVID-19 care, fixed amount has been prescribed. Regarding payments to empanelled hospitals, the Government Order in para 4 (iii)(b) states as follows:-

> *"(b) For non-critical care, the Government has authorised the United India Insurance Company Limited to form two separate Corpus Funds - i.e. (1). Corpus Fund for COVID-19 treatment in empanelled hospitals under New Health Insurance Scheme for Employees - Rs.5 crore and (2). Corpus Fund for COVID-19 treatment in empanelled hospitals under New Health Insurance Scheme for Pensioners/ Family Pensioners - Rs.2.5 crore. The United India Insurance Company Limited shall make payments for COVID-19 treatment as per the above recommended rates in para 4 (ii) to the empanelled hospitals. Accordingly, the Government hereby sanction a sum of Rs.5 crore (Rupees Five Crore only) for New Health Insurance Scheme for Employees and Rs.2.5 crore (Rupees Two Crore and fifty lakh only) for New Health Insurance Scheme for Pensioners initially towards contribution to the two Corpus Funds. The Corpus Funds will be recouped from the Government as and when required."*

4.Sub-clause (iv) reads as under:

"iv) Payments to non-empanelled Hospitals:-

United India Insurance Company Limited shall make payments as per the above rates as per para 4 (i) for critical care for COVID positive cases even in non-empanelled hospitals, as these treatments will come under the Emergency clause of the New Health Insurance Scheme, after getting orders from the District level Empowered Committee on appeal cases. With respect to non-critical care, Government employees and pensioners shall restrict their treatments to empanelled hospitals for the benefit of patient welfare."

5.Sub-clause (vi) reads as under:-

"vi). Government Employees/Pensioners who have already taken treatment for Non-critical COVID care in empanelled Hospitals from 1.3.2020 to till date are directed to submit their claims for reimbursements by appealing to the Commissioner of Treasuries and Accounts, Chennai. The Commissioner of Treasuries and Accounts shall recommend to the United India Insurance Company Limited to reimburse the payment from the Corpus fund provided by the Government."

6.With reference to the above Government Order, let us consider the case of the writ petitioner.

7.The learned Standing Counsel appearing on behalf of the Insurance Company mainly contended that if the treatment is taken in the empanelled hospital and if the nature of treatment is critical, then the Insurance Company has to settle the medical reimbursement, as per the Government Order. As far as the non-empanelled hospitals are concerned, even as per the Government Order, the Insurance Company is not liable to pay and if at all any claim is made, the same is to be considered only by the Government and not by the Insurance Company. It is made clear that in respect of non-critical treatment, if the treatment is taken in the empanelled hospital, then also the Insurance Company has to settle the claim.

8.The discharge summary with all connected records enclosed along with the writ petition reveals that the petitioner's wife suffered lung infection of 15%. However, expert Doctors alone will be competent to assess the nature of treatment provided to the petitioner's wife, whether it is critical or non-critical. Neither the Insurance Company, nor the Government authorities are competent to form an opinion regarding the treatment taken by the pensioner or the employee. Thus, it is for the petitioner to establish through the medical records that the treatment taken is whether critical or non-critical.

9.In the event of furnishing all such relevant records, the authorities have to form an opinion. However, in either of the case, as per the Government Order, if non-critical treatment is provided in a non-empanelled hospital, then Insurance Company is not liable to pay. However, if critical treatment is taken in a non-empanelled hospital, the Insurance Company is liable to pay. So also, in respect of non-critical treatment, if it is taken in empanelled hospital, then also the Insurance Company is liable to settle. Only in cases where non-critical treatments are taken in non-empanelled hospital, the Insurance Company is not liable to pay and such cases are to be referred to the Commissioner of Treasuries and Accounts/Committee for deciding the issues.

10.This being the scope of the policy, the petitioner has to submit all relevant records to establish his case whether it is falling under critical or non-critical treatment, as admittedly, the treatment is taken in a non-empanelled hospital. Thus, in the event of establishing the critical or non-critical treatment, as the case may be, then the eligibility of the petitioner as per the Government Order in G.O(Ms).No.280 is to be decided by the competent authorities.

11.In this regard, the petitioner is at liberty to submit all the relevant records, along with the relevant medical reports and certificates to the Commissioner of Treasuries and Accounts/Committee and in the event of submitting any such application, the Commissioner of Treasuries and Accounts/Committee shall consider the same and decide the merits of the case as expeditiously as possible.

12.All the impugned rejection orders are passed only based on the decision taken by the Insurance Company and their decision is communicated to the pensioners. Therefore, regarding the assessment of critical and non-critical treatments, the competent authority of the State must decide for crystallising the eligibility of the pensioners.

13.With these directions, this Writ Petition stands disposed of. No costs.

Sd/-

Assistant Registrar (A.D.II)

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/ /2022

Sub Assistant Registrar(CS)

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To

1. The Secretary to Government,
   Finance (Pension) Department,
   Secretariat, Chennai-600 009.

2. The Commissioner of Treasuries and Accounts,
   Integrated Finance Complex,
   No.571, Anna Salai, Nandanam, Chennai-600 035.

3. The Treasury Officer,
   District Treasury,
   Dindigul-624 001.

+1 CC to M/s.A.SHAJAHAN, Advocate (SR-8408[F] dated 24/02/2022)

+1 CC to M/s.SPL GP (SR-8393[F] dated 24/02/2022)

ORDER MADE IN
W.P.(MD) No.2637 of 2022
23.02.2022

KVL/12.03.2022/5P/6C