BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **11.02.2022**

CORAM:

THE HONOURABLE **MR.JUSTICE S.M.SUBRAMANIAM**

W.P.(MD)No.2829 of 2022
and
W.M.P.(MD)No.2485 of 2022

K.Lakshmi ...Petitioner

/Vs./

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

2.The Divisional Manager,
United India Insurance Company Ltd.,
5th Floor, PLA Rathna Tower,
Raji Buildings, 212, Anna Salai,Chennai - 600 006.

3.The Treasury Officer,
District Treasury Office,Tirunelveli, Tirunelveli District.

4.Assistant Treasury Officer,
Sub Treasury,
13/15, Nethaji Road,Sivagiri - 627 757,
Tirunelveli District. ...Respondents

PRAYER:- Writ Petition - filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned proceeding issued by the 1st respondent Commissioner of Treasuries and Accounts in Rc.No. 2221/NHIS-3/2021 dated 06.12.2021 insofar as rejecting the claim of petitioner is concerned alone, Quash the same and further direct the respondents herein to disburse forthwith a sum of Rs.2,50,000/- to the petitioner towards the medical claim from the Tamil Nadu Government Pensioner`s Health Fund Scheme for the treatment taken by the petitioner.

For Petitioner	:	Mr.A.Amala
For R1, R3 & R4	:	Mr.D.Sadiq Raja Additional Government Pleader
For R2	:	Mr.A.Shajahan

ORDER

The writ on hand has been instituted to quash the order of rejection dated 06.12.2021 rejecting the claim of the writ petitioner for medical reimbursement. The order of rejection passed by the first respondent reveals that the claim of the petitioner was rejected on the ground that the treatment was taken in non-network hospital and COVID-19 infection affected to the petitioner is non-critical in nature.

2.The petitioner admittedly is a member of all the pensionary Health Fund Schemes and eligible for reimbursement. The petitioner suffered with COVID-19 infection in May 2021 and took treatment at Meeran hospital, Tenkasi, for the period from 20.05.2021 to 26.05.2021. She incurred the medical expenses for a sum of Rs.2,50,000/-.She submitted an application for medical reimbursement to the fourth respondent. The claim of the writ petitioner was rejected on the ground that COVID-19 treatment undergone by the petitioner falls under non-critical category and further the treatment taken in non-network hospital cannot be considered by the authorities.

3.In respect of COVID-19 infection, the Government issued G.O.Ms.No.280, Finance (Salaries) Department, dated 24.06.2020, wherein new packages for treatment of critical and non-critical care for COVID-19 positive cases are included under the New Health Insurance Scheme for employees and pensioners.

4.Therefore, it is apparently clear that COVID-19 positive cases are covered under the New Health Insurance Scheme, both for employees and for pensioners. When the Government has taken a policy decision to reimburse the medical expenditures for COVID-19 positive cases, then the Insurance Company and the competent authorities are bound to scrutinize the treatment undergone by the applicants and take a decision, whether it is falling under critical or non-critical and accordingly, process the application.

5.In the present case, the application submitted by the writ petitioner was rejected on two grounds. Firstly, the treatment given was for non-critical and the treatment taken in non-listed hospital. As far as the non approved hospitals are concerned, the legal principles are settled by the Courts. Even in case the treatment is taken in a hospital, which is not approved in the Government order, the reimbursement is to be granted.

6.As far as the quantum of reimbursement is concerned, the nature of treatment undergone by the applicants is to be considered by the competent authorities, that is to say whether critical or non-critical. When the Government Order contemplates eligibility for reimbursement, both for critical and non-critical, the nature of treatment and its genuinity must be ascertained by the competent authorities. Once the genuinity of treatment is confirmed, then the authorities are bound to arrive at conclusion that the said treatment undergone by the applicant was critical or non-critical and accordingly, sanction the medical reimbursement as stipulated in the Government Order issued in G.O.Ms.No.280, Finance (Salaries) Department, dated 24.06.2020.

7.The learned counsel appearing for the Insurance Company raised an objection by stating that there is no premium paid for COVID-19 positive cases and there is no coverage for COVID-19 infection.

8.As far as the employees and pensioners are concerned, they are not contracted with the Insurance Companies for medical reimbursement. They are paid premium as per the Health Insurance Scheme implemented by the Government of Tamil Nadu, as these employees are either serving or retired employees of the Government of Tamil Nadu. In turn, the Government entered into a contract with the Insurance Companies and the Insurance Companies are settling the medical reimbursement claims.

9.In the aforesaid process, if at all any dispute arises regarding the policy and the claims, then the Insurance Company are bound to resolve the same with the Government and not to reject the claim submitted by the eligible applicants as per the Government policies issued.

10.Pertinently, the dispute exists between the Insurance Company and the Government cannot disentitle an employee or pensioner from availing the medical reimbursement claimed under the Government Orders in force, with reference to the Health Insurance Policy. Therefore, the Insurance company cannot go beyond the scope of the Government Policy already in force.

11.In the event of any dispute with reference to the policy of the Government, then, under the terms and conditions of the contract with the Government, they are at liberty to resolve the same in the manner agreed between the Government and the Insurance Company concerned. Contrarily, these Insurance Companies cannot go beyond the scope of the policy granting entitlement to the employees or the pensioners.

12.No doubt, applications are rejected either on the ground that the deceased or the treatment undergone is not found in the list of diseases/treatment/procedures/surgery, etc. If at all the treatment undergone by the employees or pensioners is not listed in the Government Policy, then the applicant is not eligible. However, if the treatment is taken in a non-listed hospital, then the employee is eligible for medical reimbursement, subject to prove the genuineness of the treatment undergone.

13.Thus, it is made clear that if the treatment is not contemplated in the Government Policy, then the claim is to be rejected and if the hospital is not listed in the Government Orders, then, the claims are to be settled. This being legal principles consistently following by the Courts, the petitioner has furnished the copy of the Government Policy showing that COVID-19 positive cases are included for medical reimbursement claims. Then, the case of the petitioner is to be considered, with reference to the G.O.Ms.No.280, Finance (Salaries) Department, dated 24.06.2020.

14.In view of the facts and circumstances, the order impugned passed by the first respondent in proceedings Rc.No. 2221/NHIS-3/2021 dated 06.12.2021 is quashed and the matter is remanded back to the first respondent for re-consideration of the application submitted by the writ petitioner with reference to the G.O.Ms.No.280, Finance (Salaries) Department, dated 24.06.2020 and ascertain the eligibility with reference to the medical records and accordingly, pass an order afresh on merits and in accordance with the Government Policy, within a period of eight weeks from the date of receipt of a copy of this order.

15.With the above directions, this writ petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (AD-II)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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To

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

2.The Treasury Officer,
District Treasury Office, Tirunelveli, Tirunelveli District.

3.Assistant Treasury Officer,
Sub Treasury, 13/15, Nethaji Road,
Sivagiri - 627 757, Tirunelveli District.

+1 CC to M/s.A.AMALA, Advocate (SR-5869[F] dated 14/02/2022)

+1 CC to M/s.SPL GP (SR-5957[F] dated 14/02/2022)

+1 CC to M/s.A.SHAJAHAN, Advocate (SR-5819[F] dated 14/02/2022)

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