BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 22.02.2022
CORAM:
THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM
W.P.(MD) No.3545 of 2020

Shenbagaraj ... Petitioner

-vs-

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

2.The Director of Pension
O/o.Directorate of Pension
Finance Department Office Complex
571, Anna Salai, Chennai-35

3.The District Collector
District Level Empowered Committee
Thoothukudi

4.The Treasury Officer
District Treasury
Thoothukudi

5.The United India Insurance Company Ltd.,
through by its General Manager
PLA Rathna Towers, 5th Floor
212, Anna Salai, Chennai ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of certiorarified mandamus to call for the records of the 4th respondent bearing Na.Ka.No.525/2017 Ra3, dated on 21.05.2018 and quash the same, consequently direct the respondents to reimburse the petitioner's medical expenses of Rs.93,778/- in accordance with law along with interest at the rate of 9% per annum from 27.04.2017 till the disbursement.

For Petitioner : Mr.S.Siva Ilayaraja
For Respondents : Mr.A.K.Manikkam
Special Government Pleader for R1 to R4
Mr.A.Shajahan for R5

O R D E R

The order of rejection, dated 21.05.2018, passed by the fourth respondent, rejecting the petitioner's medical reimbursement claim, is under challenge in this writ petition.

2. The only reason for rejection of the medical reimbursement claim of the petitioner is that he has has taken treatment in a non-network hospital.

3. Admittedly, the petitioner submitted application along with the medical bills for medical reimbursement claim. The order of rejection states that the treatment was not undergone in the approved hospital. The Courts have repeatedly ruled that the genuinity of the treatment is to be ascertained and not the hospital in which the petitioner has taken treatment. A person, who is in medical urgency, cannot approach the approved hospital by verifying the list of hospitals provided in the Government Order. In order to meet out the medical urgency, if treatment is taken in any hospital, then the Authority competent is bound to verify the genuinity of the treatment and settle the medical reimbursement claim.

4. Health Insurance Scheme for providing better health and decent medical treatment is an integral part of Article 21 of the Constitution of India. Right to life includes a decent medical treatment. This being the scope of the fundamental rights, the welfare schemes introduced for the purpose of providing medical treatment cannot be interpreted unnecessarily to the disadvantage of the employees, who are otherwise entitled for the medical reimbursement.

5. In view of the above, the petitioner is eligible for medical reimbursement claim.

6. Even in all such cases, where dispute arises between the Insurance Company and the Government with reference to the contract between the parties, then the amount shall be settled in favour of the employee by the Insurance Company at the first instance and thereafter, the Insurance Company is at liberty to claim the reimbursement amount from the Government by explaining the reasons for such claim. However, the claim amount to the eligible employees / pensioners, at no circumstances, be delayed. The very purpose of the Scheme is to ensure that the employees get a decent and fair treatment in the matter of providing medical facilities by the State. Therefore, on account of the contractual dispute between the Insurance Company and the Government, the employees cannot be penalized. Thus, in all such cases, where the Insurance Company raises dispute with reference to the contract with the Government, such contractual obligations are to be adjudicated in the manner known to law, because the employees / pensioners are third parties to such contract between the Insurance Company and the Government. This being the factum, the Insurance Company cannot be exonerated from the liability nor they can plead innocence or otherwise. If they are not interested in settling the medical reimbursement claim, it is for the Insurance Company to take a decision, but they have no power to deny the medical reimbursement claim to the eligible employees / pensioners / family pensions / dependants.

7. Accordingly, the writ petition is allowed and the impugned order dated 21.05.2018, passed by the fourth respondent, is quashed and the respondents are directed to ascertain the eligibility of the petitioner and accordingly, settle the medical reimbursement claim of the petitioner, within a period of eight weeks from the date of receipt of a copy of this order. No costs.

Sd/-
Assistant Registrar (AS)

// True Copy //

/ /2022
Sub Assistant Registrar(CS)

krk

To:

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

2.The Director of Pension,
O/o.Directorate of Pension,
Finance Department Office Complex,
571, Anna Salai, Chennai-35.

3.The District Collector,
District Level Empowered Committee,
Thoothukudi.

4.The Treasury Officer,
District Treasury,
Thoothukudi.

+1 CC to M/s.S.SIVAILAYARAJA, Advocate (SR-8025[F] dated 23/02/2022)

+1 CC to M/s.SPL GP (SR-8069[F] dated 23/02/2022)

W.P.(MD) No.3545 of 2020
22.02.2022

CK(CO)
GC(05.03.2022) 3P 7C