



WP(MD)No.3534 of 2022

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **29.08.2022**

CORAM:

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

W.P.(MD)No.3534 of 2022
and
W.M.P.(MD)No.3087 of 2022

K.Iyappan

... Petitioner

/vs./

- 1.The Additional Chief Secretary to Government,
Finance Department, Fort St. George, Secretariat,
Chennai 600 009.
- 2.The District Collector,
Kanyakumari District.
- 3.The Joint Director Medical and Rural Health Services,
Kanniyakumari District.
- 4.The Treasury Officer, District Treasury,
Nagercoil,
Kanyakumari District.
- 5.United India Insurance Company Limited,
Division Office 010600,
5th Floor, PLA Rathna Tower
212, Anna Salai, Chennai 600 006.

... Respondents



WP(MD)No.3534 of 2022

WEB COPY

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records pertaining to the order bearing Ref.No.3170/E3(1)/P/10/2021 dated 30.11.2021 passed by the 3rd respondent and consequent order bearing Rc.No.21977/2015 (61)/L2 dated 13.12.2021 passed by the 4th respondent and quash the same and consequently direct the respondents to pay the petitioner a sum of Rs.2,73,671.92/- towards the reimbursement of medical expenses incurred by the petitioner with interest.

For Petitioner : Mr.M.Krishna Sreethar

For Respondents : Mr.M.Siddharthan

Additional Government Pleader (For R1 to R4)

Mr.A.Shajahan (For R5)

ORDER

The petitioner, who was a member of the New Health Insurance Scheme, had undergone surgery at Kims Health Hospital, Trivandrum, Kerala, for Lap Cholecystectomy.

2.The petitioner's claim for medical reimbursement was referred to the District Level Empowered Committee (hereinafter referred to as “DLEC” for



WP(MD)No.3534 of 2022

WEB COPY

brevity), which is the Committee constituted by the Government headed by the 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, 13.12.2021, 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 and G.O.Ms.No.401, Health and Family Welfare (Z1) Department, 09.09.2021, had



WP(MD)No.3534 of 2022

WEB COPY

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 (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 orders of rejection by the DLEC cannot be sustained. On the other hand, DLEC ought to



WP(MD)No.3534 of 2022

WEB COPY

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 the DLEC, dated 13.12.2021, is hereby quashed and there shall be a direction to the respondents 1 to 4, 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 partly allowed accordingly. There shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

29.08.2022

Index : Yes / No
Internet : Yes / No
sm



WEB COPY



WP(MD)No.3534 of 2022

M.S.RAMESH, J.

Sm

TO:

- 1.The Additional Chief Secretary to Government,
Finance Department, Fort St. George, Secretariat,
Chennai 600 009.
- 2.The District Collector,
Kanyakumari District.
- 3.The Joint Director Medical and Rural Health Services,
Kanniyakuamari District.
- 4.The Treasury Officer, District Treasury,
Nagercoil,
Kanyakumari District.

Order made in
W.P.(MD)No.3534 of 2022

Dated:
29.08.2022