



WP(MD)No.3549 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.3549 of 2022

M.Banu

... Petitioner

/vs./

1.The Government of Tamil Nadu,
Rep by its Secretary,
Health and Family Welfare Department,
Fort St. George, Chennai.

2.The District Collector,
Tirunelveli District, Kokkirakulam, Tirunelveli.

3.The Coordinator,
Tirunelveli Division,
United India Insurance Co. Ltd.,
Opp. to Bus Stand,
Tirunelveli Junction,
Tirunelveli District.

4.The Joint Director of Health Services,
Tirunelveli at Tenkasi,
Tenkasi, Tenkasi District.

5.The District Treasury Office,
Tirunelveli,
Collectorate, Tirunelveli.

... Respondents



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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 impugned order in Na.Ka.No.5917/Ka5/2018 dated 01.07.2019 issued by the 4th respondent and quash the same as illegal and consequently directing the respondents to reimburse the medical expenses of Rs.1,45,566/- to the petitioner.

For Petitioner : Mr.P.Subbiah

For Respondents : Mr.R.Ragavendran

Government Advocate (For R1, R2, R4 and R5)

Mr.I.Robert Chandrakumar (For R3)

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 Rhock Hospital, Tirunelveli, for fracture on her right forehead and elbow.

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 01.07.2019, 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 ordered that whenever the hospital is not covered or the treatment is not enlisted



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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 order of rejection by the DLEC cannot be sustained. On the other hand, DLEC ought to have held that the Government Employee / Pensioner would be entitled for



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reimbursement from the State Government, in accordance with the rates prescribed under the Rules.

7. Accordingly, the impugned order of DLEC, dated 01.07.2019, is hereby quashed and there shall be a direction to the respondents 1, 2, 4 and 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.

29.08.2022

Index : Yes / No

Internet : Yes / No

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TO:

1. The Secretary,
Health and Family Welfare Department,
Fort St. George, Chennai.
2. The District Collector,
Tirunelveli District, Kokkirakulam, Tirunelveli.
3. The Joint Director of Health Services,
Tirunelveli at Tenkasi, Tenkasi, Tenkasi District.

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4.The District Treasury Office,
Tirunelveli,
Collectorate, Tirunelveli.

Order made in
W.P.(MD)No.3549 of 2022

Dated:
29.08.2022