BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.02.2022

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.(MD) No.4231 of 2020

S.Sankara Narayanan ... Petitioner

-vs-

1.The Director of Treasuries and Account
Panagal Building, Saidapet, Chennai-15

2.The Director of Medical and Rural Health Service
Directorate, Annasalai
Theynampet, Chennai

3.The Deputy Director of Medical and
Rural Health Service and Family Welfare
District Family Welfare Bureau
5-A, Salai Street, Tirunelveli-03

4.The District Treasury Officer
Collectorate Campus, Tirunelveli

5.The Sub Treasury Officer
Sub Treasury, Palayamkottai
Tirunelveli District

6.MD India Health Insurance TPA Pvt. Ltd.,
Unit of United India Insurance Company Ltd.,
Guna Complex, New Door No.443 & 445
Old Door No.304 & 305, Annasalai
Theynampet, Chennai-18

7.The Divisional Manager
United India Insurance Company Ltd.,
Division Officer VI, PLA Rathna Tower
5th Floor, Annasalai, Chennai-6 ... 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 relating to the impugned order passed by the 4th respondent and quash the same as illegal and may consequently direct the respondents to pay medical bill of rupees 1,14,176/- to the petitioner payable under New Health Insurance Scheme, 2018 for reimbursing Medical Expenditure incurred by the petitioner's wife with the interest at the rate of 12%.

For Petitioner : Mr.A.Balakrishnan

For Respondents : Mr.D.Sadiq Raja
Additional Government Pleader for R1 to R5
Mr.A.Shajahan for R6 & R7

O R D E R

The order of rejection passed by the fourth respondent rejecting the petitioner's medical reimbursement claim, on the ground that the the treatment undergone in a non-network hospital is under challenge in this writ petition.

2. The petitioner is a pensioner and he is a member of New Health Insurance Scheme. His wife, on account of sudden hypertension, was admitted in Peacock Hospital, Tirutani, due to emergency, as inpatient and she was discharged on 28.01.2018. According to the petitioner, his wife was admitted in the said hospital, while they were travelling to Tirupati and under those circumstances, the petitioner's wife had undergone treatment in the said hospital.

3. In such circumstances, the Courts have repeatedly held that if the treatment is undergone on account of emergency, then the claim for reimbursement cannot be denied merely on the ground that the hospital is not an approved hospital under the Government. The genuinity of the treatment alone is to be verified and in respect of the hospital, even in case the treatment is taken in a non-network hospital, the claim is to be considered.

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 fact that the wife of the petitioner has undergone treatment and eligible for reimbursement, the impugned order passed by the fourth respondent rejecting the petitioner's claim merely on the ground that treatment was undergone in a non-network hospital is to be reconsidered.

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 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 Director of Treasuries and Account,
Panagal Building, Saidapet,
Chennai-15.

2.The Director of Medical and Rural Health Service,
Directorate, Annasalai,
Theynampet, Chennai.

3.The Deputy Director of Medical and
Rural Health Service and Family Welfare,
District Family Welfare Bureau,
5-A, Salai Street,
Tirunelveli-03.

4.The District Treasury Officer,
Collectorate Campus,
Tirunelveli.

5.The Sub Treasury Officer,
Sub Treasury, Palayamkottai,
Tirunelveli District.

+1 CC to M/s.A.SHAJAHAN, Advocate (SR-8014[F] dated 23/02/2022)

+1 CC to M/s.A.BALAKRISHNAN, Advocate (SR-8129[F] dated 23/02/2022)

+1 CC to M/s.SPL GP (SR-8054[F] dated 23/02/2022)

W.P.(MD) No.4231 of 2020
22.02.2022

MGJ(07.03.2022) 4P 9C