



W.P.(MD)No.5187 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.08.2022

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THE HONOURABLE MR. JUSTICE M.S.RAMESH

W.P.(MD).No.5187 of 2022

K.Viswanathan

... Petitioner

/Vs./

- 1.The Secretary to Government,
(Finance and Pension Department),
Secretariat, Fort St. George, Chennai.
- 2.The Commissioner of Treasuries and Accounts,
Integrated Office Complex For Finance Department,
3rd Floor, Veterinary Hospital Campus,
Anna Salai, Chennai-600035.
- 3.The United India Insurance Company Limited,
Rep. by its Divisional Manager,
Divisional Office VI,
5th Floor, P.L.A.Rathna Towers,
No.212, Anna Salai, Chennai-6.
- 4.District Level Committee,
Rep. by District Collector,
Nagercoil, Kanyakumari District.
- 5.The District Treasury Officer,
The District Treasury Office,
Nagercoil, Kanyakumari District.
- 6.The Joint Director of Medical and Rural Health Services,
Nagercoil, Kanyakumari District.

...Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records on the file of 5th respondent pertaining to its order bearing R.C.No. 21977/2015(57)/L2 dated 15-11-2021 and to quash the same and consequently direct the respondents to disburse Rs.92,575/- spent by the petitioner for the treatment underwent by his wife within a stipulated time fixed by this Court.

For Petitioner : Mr.S.C.Herold Singh

For Respondents : Mr.A.Sivanupandian

Additional Government Pleader (for R1, R2 to R4 to R6)

Mr.A.Shajahan (for R3)

ORDER

The petitioner, is a member of the New Health Insurance Scheme, which introduced for Government Employees and Pensioners and his wife had taken treatment at Lister Hospital, Marthandam, for Vaginal Hysterectomy, Cystocele, Rectorcele.

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 District Collector, having the Joint Director of Medical and Rural Health



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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 15.11.2021, stating that the petitioner's wife 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 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



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

7.Accordingly, the impugned order of DLEC, dated 15.11.2021, is hereby quashed and there shall be a direction to the respondents 1, 2 and 4 to 6, to



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reimburse the eligible amount for the medical expenses incurred for the treatment undergone by the petitioner's wife, 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.

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Index : Yes / No
Internet : Yes/ No
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To:

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M.S.RAMESH, J.

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