



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.04.2022

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.(MD) No.7113 of 2022

WEB COPY

S.M.Irulandi

... Petitioner

vs.

1.The Commissioner of Treasuries and Accounts,
No.9, Jones Road, Anna Nagar Street,
Saidapet, Chennai-600 015.

2.The Director of Medical and Rural Health Services/
Member Secretary,
SLEC for NHIS
DMS Compound,
Chennai-600 006

3.The United India Insurance Company Limited,
Divisional Office VI, PLA Rathna Towers,
5th Floor, 212, Anna Salai, Chennai-600 006.

(R3 suo motu impleaded vide order dated
25.04.2022 in W.P(MD)No.7113 of 2022) ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of Mandamus, to direct the second respondent ie., the Director of Medical and Rural Health Services / Member Secretary, State Level Empowered Committee for NHIS, Chennai, to pass appropriate orders on the petitioner's appeal dated 27.12.2021 based on the recommendations of the District Level Empowered Committee reported by the Treasury Officer, District Treasury Sivagangai in his Na.Ka.No.6719/2020/B1 dated 18.08.2021 within a specified time frame that may be fixed by this Court.

For Petitioner: Mr.S.Visvalingam

For R1 & R2 : Mr.D.Sadiq Raja
Additional Government Pleader

For R3 : Mr.A.Shajahan



ORDER

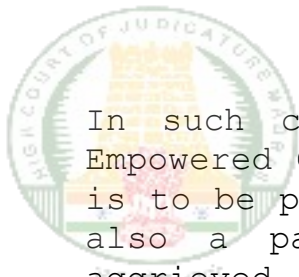
The petitioner is a State Pensioner and retired as Assistant Director of Fisheries. He was allowed to retire from service on 28.02.2004. The petitioner is a member of New Health Insurance Scheme and his wife viz., I.Bakiyalakshmi was admitted in Balaji Hospital, Coimbatore, on account of certain emergency circumstances and underwent treatment. Subsequently, the wife of the petitioner has taken treatment in some other hospitals also. The petitioner submitted an application seeking medical reimbursement.

2.It is not in dispute between the parties that the District Level Empowered Committee recommended the case of the writ petitioner for grant of medical reimbursement. However, the Insurance Company has not paid the medical reimbursement claim of the writ petitioner. In view of the fact that the petitioner has mistakenly not impleaded the Insurance Company, this Court suo motu impleaded the United India Insurance Company as the third respondent.

3.The learned counsel appearing for the third respondent, Insurance Company reiterated that the petitioner has already preferred an appeal before the State Level Empowered Committee and the same is yet to be considered.

4.The Courts have taken a consistent view that the contract between the Insurance Company and the Government would not affect the medical reimbursement claim of the pensioner. The pensioners, at the old age, should not be driven from pillar to post for getting medical reimbursement. Medical facility is considered as a basic right and an integral part of Article 21 of the Constitution of India. Thus, such welfare schemes are to be implemented pragmatically and constructively. The genuinity of the treatment is to be verified, mere technicality cannot be a reason to deny such welfare schemes.

5.In the present case, the District Level Empowered Committee recommended the case of the writ petitioner as genuine for settling the medical reimbursement claim. However, the third respondent United India Insurance Company has taken a different view than that of the view taken by the District Level Empowered Committee. It is pertinent to note that a representative of the third respondent Insurance Company is also a member of the District Level Empowered Committee. Thus, the Committees recommendations are binding on the Insurance Company. No doubt, the petitioner has filed an appeal with an impression that the State Level Empowered Committee would decide.



In such circumstances, this Court held that the District Level Empowered Committee once recommended the case of the petitioner, it is to be paid by the Insurance Company. As the Insurance Company is also a party to the Committee and the Insurance Company, if aggrieved may prefer an appeal before the State Level Empowered Committee under the scheme. Contrarily, the pensioner need not be driven unnecessarily before the State Level Empowered Committee, despite the fact that the District Level Empowered Committee recommended the case of the writ petitioner.

6. In view of the consistent view taken in this regard, the prayer in the writ petition needs to be molded, merely because, the petitioner preferred an appeal before the Committee, the same would not disentitle him to get the medical reimbursement claim.

7. Accordingly, the third respondent, United India Insurance Company Ltd., is directed to settle the eligible medical reimbursement claim of the writ petitioner within a period of eight weeks from the date of receipt of a copy of this order. In respect of the appeal filed by the petitioner before the State Level Empowered Committee, the third respondent United India Insurance Company is also at liberty to implead themselves or raise objections through their representative in the State Level Empowered Committee. If at all the Insurance Company is of an opinion that the petitioner is not entitled, the Insurance Company is at liberty to file a fresh appeal before the State Level Committee, if the petitioner has chosen to withdraw his appeal, in view of the orders passed in the present writ petition.

8. With these directions, this writ petition stands disposed of. No Costs.

Sd/-

Assistant Registrar

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

To

1. The Commissioner of Treasuries and Accounts,
No.9, Jones Road, Anna Nagar Street,
Saidapet, Chennai-600 015.



2.The Director of Medical and Rural Health Services/
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SLEC for NHIS
DMS Compound,
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3.The United India Insurance Company Limited,
Divisional Office VI, PLA Rathna Towers,
5th Floor, 212, Anna Salai, Chennai-600 006.

+1 CC to M/s.A. SHAJAHAN, Advocate (SR-22034[F] dated 28/04/2022)
+1 CC to M/s.S.VISVALINGAM, Advocate (SR-22307[F] dated
28/04/2022)
+1 CC to M/s.SPL.GP (SR-23253[F] dated 02/05/2022)

W.P. (MD) No.7113 of 2022
28.04.2022

nsn(CO)
TR(28.05.2022) 4P 7C