



W.P.(MD)No.15253 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.08.2022

CORAM

THE HONOURABLE MR. JUSTICE M.S.RAMESH

W.P.(MD).No.15253 of 2020

Christy Angel Baby

... 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 600 035.
- 3.The United India Insurance Company Limited,
rep., by its Divisional Manager,
Divisional Office VI,
5th Floor, P.L.A.Rathana Towers,
No.212, Anna Salai,
Chennai 6.
- 4.The District Level Committee,
rep., by District Collector,
Nagercoil, Kanyakumari District.
- 5.The District Treasury Officer,
The District Treasury Office,
Nagercoil, Kanyakumari District.
- 6.The Sub Treasury Officer,
Vilavancode, Kanyakumari District.

...Respondents



W.P.(MD)No.15253 of 2020

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 Na.Ka.No. 21977/2015/L2(15) dated 13.11.2017 and to quash the same and consequently direct the respondents to disburse Rs.79,098/- spent by the petitioner for the treatment underwent by her within a stipulated time fixed by this Court, by considering the representation of the petitioner dated 16.10.2020.

(Prayer amended vide Court Order dated 22.06.2022 in WMP(MD).14054/2020 in WP(MD).15253/2020 by MSRJ)

For Petitioner : Mr.S.C.Herold Singh

For Respondents : Mrs.D.Farjana Ghoushia

Special Government Pleader (for R1, R2, 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 she had taken treatment at Dr.Jacob's Heart Speciality Hospital, Kuzhithurai, and Sree Mookambika Institute of Medical Sciences at Kulasekharam for severe cardiac ailments.



W.P.(MD)No.15253 of 2020

WEB COPY

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 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 13.11.2017, stating that the petitioner had not taken treatment in a network hospital or the ailment/treatment/surgery was not scheduled one, as per the procedure contemplated under G.O.Ms.No.241, Finance (Salaries) Department, dated 24.08.2016.

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.



W.P.(MD)No.15253 of 2020

WEB COPY

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 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 (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.



W.P.(MD)No.15253 of 2020

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 13.11.2017 is hereby quashed and there shall be a direction to the respondents 1 & 2, 4 to 6, 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.

17.08.2022

Index : Yes / No
Internet : Yes/ No
sm

To:

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 600 035.



WEB COPY



W.P.(MD)No.15253 of 2020

M.S.RAMESH, J.

sm

- 3.The District Level Committee,
rep., by District Collector,
Nagercoil, Kanyakumari District.
- 4.The District Treasury Officer,
The District Treasury Office,
Nagercoil, Kanyakumari District.
- 5.The Sub Treasury Officer,
Vilavancode, Kanyakumari District.

W.P.(MD).No.15253 of 2020

17.08.2022