BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.02.2022

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.(MD)No.16033 of 2020

C.S.Jeyachandra Singh ... Petitioner

Vs.

1.The Secretary,
Family Welfare and Health Department,
Government of Tamil Nadu,
Secretariat,
Fort St.George,
Chennai-600 009.

2.The Director of Pension,
259, Anna Salai,
3rd Block - 2nd Floor,
DMS Campus,
Teynampet,
Chennai-600 006.

3.The Divisional Manager,
United India Insurance Co., Ltd.,
No.24, Whites Road,
Chennai-600 014.

4.The Joint Director,
Medical and Rules Welfare works,
Kottar, Nagercoil.

5.The District Treasury Officer,
Kanyakumari District,
Nagercoil,
Kanyakumari District. ... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus, to call for the records of the 5th respondent communicating the rejection of medical reimburse amount by the 4th respondent in Na.Ka.No.21977/2015/L2(28) 26.02.2019 and further direct the respondents to pay Medical reimbursement of Rs.5,66,832.55 with interest within the time frame that may be stipulated by this Court.

For Petitioner :Mr.D.Anbarasu
For R1, R2, R4&R5 :Mr.N.Satheesh Kumar
Additional Government Pleader
For R3 : A.Shajahan

O R D E R

The order of rejection passed by the fifth respondent in proceedings, dated 26.02.2019, rejecting the claim of the writ petitioner for medical reimbursement, is under challenge in the writ petition.

2.The petitioner states that his father Mr.K.Chellan, was working as Head Constable in Police Department and retired from service in the year 2002. The father of the writ petitioner was a member of the New Health Insurance Scheme 2014 and therefore, eligibility for medical reimbursement and he died on 10.09.2018 and hence, the petitioner, who is the son of the deceased employee, filed an application seeking medical reimbursement. The said application was considered and the District Level Empower Committee scrutinized the medical documents and formed an opinion that the father of the writ petitioner had not taken any emergency treatment in the non-network hospital. In view of the fact that the treatment taken in the non-network hospital is eligible for medical reimbursement only if the emergency is established. In other words, the scheme contemplates in emergency circumstances the member of the Health Insurance Scheme may take treatment in any hospitals and in respect of regular treatment, they have to approach the net work hospitals. This being the scope of the scheme, the District Level Empowered Committee rejected the claim of the writ petitioner's father on the ground that he was taken treatment for a longer period, which was not considered as emergency period and accordingly rejected.

3.This apart, against the order passed by the fifth respondent, if at all any grievance exist, the petitioner has to approach the State Level Committee along with all medical records to establish their case. Contrarily, the High Court cannot scrutinize the original medical records in respect of the nature of treatment undertaken by the deceased father of the writ petitioner.

4.With reference to the facts and circumstances, it is relevant to consider G.O.Ms.No.222, Finance (Pension) Department, dated 30.06.2018. The said G.O., provides medical aid under New Health Insurance Act, 2018, for pensioners (including Spouse)/ family pensioners.

5.As per the guidelines issued for implementation of New Health Insurance Scheme, 2018, the emergency care has been enumerated in para 4(1) (k) which states that "Emergency Care means management for

an illness or injury which results in symptoms which occur suddenly and unexpectedly, and requires immediate care by a medical practitioner to prevent death or serious long term impairment of the insured person's health".

6.The very same G.O.Ms.No.222, contemplates for medical reimbursement in respect of the treatment taken in Non-network hospitals. Para 11(2) of the said G.O., reads as under:

> **11(2)Non-Network Hospital Claims:** Eligible Medical Expenses incurred in Non-Network Hospital during Hospitalization for Emergency Care or following an Accident by the Beneficiary shall be reimbursed by the Insurance Company subject to the Ceiling Criteria upon submission of claim by the Beneficiary or his/her legal heirs to the Grievance Redressal Officer as listed in the Annexure-V to these guidelines and the approval of the District Level Empowered Committee or State Level Empowered Committee or High Level Empowered Committee. The amounts that can be claimed for reimbursement will be limited to package rates as notified by Government on the recommendations of the Accredition Committee as per the process stated in clause 15 of these guidelines."

7.Therefore, as per the Medical Health Insurance Scheme, the Government contemplated medical reimbursement for treatment taken in non-network hospital. However, the claim will be settled only if such treatments are taken in non-network hospital on emergency circumstances. The emergency medical care require to be assessed by the Committee consists of qualified Doctors. Therefore, in order to avail the benefit of medical reimbursement claim, the applicant should establish that he has taken treatment on emergency circumstances in non-network hospital and in the event of establishing the same, the medical reimbursement claim is to be settled. If the District level Committee has not considered the medical records of the applicant, then the aggrieved person has to approach the State Level Committee to consider the medical records and form an opinion with reference to the emergency care provided to the applicant for the purpose of settling the claim. This being the scope of the Government Scheme, the Court cannot grant any relief beyond the scope of the scheme.

8.Initial scheme of the Government did not contemplate the medical claims for the treatment taken in non-network hospital. However, the Courts have consistently held that even if the treatment is not taken in non-network hospital, the claims are to be settled, under these circumstances, the Government revised the Health Insurance Scheme and provides a clause for settlement of medical reimbursement claims in respect of the treatment taken in non-network hospitals. However, the emergency care provided to the applicant must be established before the Competent

Authorities/Committee constituted for the purpose of assessing the medical records.

9.The High Court is not an expert body so as to provide opinion in the matter of medical emergency or emergency care to be established by the petitioner. However, the Medical Health Insurance Scheme must be strictly in accordance with the eligibility and as per the terms and conditions of the scheme. In the event of extending the scheme by the High Court, the same will result in huge financial expenditure to the State exchequer, which is not desirable. Therefore, all medical reimbursement claims are to be settled in accordance with the terms and conditions of the scheme and further there is a provision under the guidelines itself to settle the medical reimbursement claim. Even in cases where treatments are taken in non-network hospital, but only the pre condition is, the applicant must establish the emergency care taken. In view of the fact that the Government cannot encourage the pensioners to take treatment always in non-network hospitals and by spending huge money, they cannot claim medical reimbursement. Therefore, the approach of the Government in this regard is certainly judicious as in the event of any emergency care, then the claimant is entitled to approach non-network hospital for taking emergency treatment and the same is to be established before the competent committee for the purpose of getting reimbursement.

10.In the present case, the District Level Committee has rejected the claim of the writ petitioner. The petitioner though claims that he has taken emergency treatment, the authorities found that the petitioner was taking treatment on necessary. But the petitioner is disputing the decision of the authorities. Even in case, the petitioner disputes the decision of the District Level Committee, the medical records are to be reviewed by the State Level Committee regarding the emergency care provided to the petitioner on a particular date of treatment or otherwise. Such disputed facts with reference to the medical treatment cannot be adjudicated in the writ petition and therefore, the petitioner is bound to exhaust the appeal remedy contemplated under the scheme before the State Level Empowered Committee and High Level Empowered committee. These committees are competent to decide the emergency care provided to the writ petitioner by verification of the medical records and the treatment undertaken by the claimants.

11.Many writ petitions are filed by the aggrieved persons by misunderstanding the terms and conditions of the scheme. The High Court cannot extend the scope of the scheme under Article 226 of the Constitution of India. Such welfare schemes are to be implemented as per the terms and conditions stipulated and in the event of expansion, it will result in unnecessary financial burden to the State exchequer. Therefore, the authorities competent in the present case ie., the first respondent has to widely publish and circulate regarding the scope of the scheme to the pensioners, even in

Treasury Office and in Pension Payment Office etc., enabling the pensioners to understand the scope of the scheme and their eligibility for medical reimbursement scheme. By providing such facility to the pensioners, unnecessary disputes in this regard may be avoided. Thus, the first respondent is directed to display the scope of the scheme and the terms and conditions in all the Office of the Pension Disbursing Department and Pension Pay Office etc., as expeditiously as possible.

12.In this view of the matter, the petitioner is at liberty to approach the State Level Empowered Committee and High Level Empowered Committee for the purpose of establishing his case in the manner contemplated in the scheme. Accordingly, this Writ Petition is disposed of. No costs.

Sd/-

Deputy Registrar (A/c)

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/ /2022

Sub Assistant Registrar(CS)

To

1.The Secretary,
Family Welfare and Health Department,
Government of Tamil Nadu,
Secretariat, Fort St.George,
Chennai-600 009.

2.The Director of Pension,
259, Anna Salai,
3rd Block - 2nd Floor,
DMS Campus, Teynampet,
Chennai-600 006.

3.The Joint Director,
Medical and Rural Welfare works,
Kottar, Nagercoil.

4.The District Treasury Officer,
Kanyakumari District,
Nagercoil, Kanyakumari District.

+1 CC to M/s.A.SHAJAHAN, Advocate (SR-9350[F] dated 01/03/2022)
+1 CC to M/s.SPL GP (SR-9204[F] dated 01/03/2022)

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