

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **29.08.2022**

CORAM:

THE HONOURABLE **MR.JUSTICE M.S.RAMESH**

W.P.(MD)No.16138 of 2022

Latha Kumari

... Petitioner

/Vs./

- 1.The Secretary to Government (Expenditure),
(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 Ltd.,
Represented by its Divisional Manager,
Divisional Office-VI,
5th Floor, PLA Rathna Towers,
No.212, Anna Salai, Chennai-6.
- 4.District Level Committee,
Represented 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

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records on the No.Nill dated 30.04.2021 and to quash the same and consequently direct the respondents to disburse Rs.1,59,360/- spent by the petitioner for the treatment underwent by her within a stipulated time fixed by this Court.

For Petitioner : Mr.S.C.Herold Singh

For Respondents : Mrs.D.Farjana Ghoushia

Special Government Pleader (R1, R2, R4 to R6)

: Mr.C.Karthik

Standing Counsel (for R3)

ORDER

The petitioner claims for medical reimbursement for the medical expenses undertaken by her for her treatment in connection with Covid-19 virus, came to be recommended by the District Level Empowered Committee (DLEC).

2.It is pertinent to point out that while the Government has issued the Government Order in G.O.Ms.No.165, Finance [Health Insurance] Department dated 01.06.2022, the petitioner would be entitled for reimbursement of the medical expenses incurred by her in this regard.

3.However, inspite of the recommendation made by the DLEC, the Insurance Company, the third respondent herein had rejected the petitioner's claim through the impugned order dated 30.04.2021, on the ground that the diagnosis is not covered under the Scheme and the treatment taken in the hospital was a non-network hospital.

4.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.

5.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.

6.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.

7.In the light of the aforesaid Government Orders, the impugned order of the third respondent, dated 30.04.2021 cannot be sustained and the Government Employee / Pensioner would be entitled for reimbursement from the State Government, in accordance with the rates prescribed under the Rules.

8.Accordingly, the impugned order of the third respondent/Insurance Company, dated 30.04.2021 is hereby quashed and there shall be a direction to the respondents 1, 2 and 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.

29.08.2022

Index : Yes / No
Internet : Yes / No
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M.S.RAMESH, J.

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To:

- 1.The Secretary to Government (Expenditure),
(Finance and Pension Department),
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- 5.The Joint Director of Medical and Rural Health Services,
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Order made in
W.P.(MD)No.16138 of 2022

Dated:
29.08.2022