



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.02.2022

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD) No.17311 of 2019

Rajammal (Died)

- 1.Thangapandian
- 2.Packiaraj Rajendran
- 3.Gajendran
- 4.Sumathi

... Petitioners

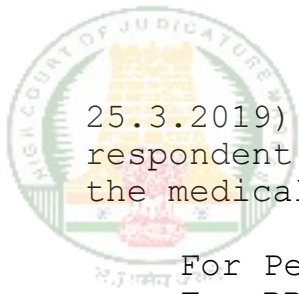
[Petitioners 1 to 4 are substituted vide order dated 08.02.2022 in WMP(MD) No.46 of 2021 in WP(MD) No.17311 of 2019]

-vs-

- 1.The Secretary to Government,
Finance (Pension) Department,
Government of Tamilnadu,
Chennai-9.
 - 2.The District Treasury Officer,
District Treasury,
Tirunelveli District,
Tirunelveli-9.
 - 3.The District Level Empowered Committee,
Tirunelveli District,
Tirunelveli,
Rep., by its Chairman/District Collector.
 - 4.The Joint Director of Medical & Rural Health Services,
Tirunelveli District,
Tenkasi, Tirunelveli District.
 - 5.The United Indian Insurance Co. Ltd.,
Rep., by its Regional Manager,
PLA Rathna Towers, 5th Floor,
212, Anna Salai, Chennai-6.
- ... Respondents

Prayer:- Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus to call for the entire records in respect of the proceedings of the 2nd respondent in Na.Ka.No.4764/2018/N1 dated nil.03.2019 (signed on

<https://hcservices.ecourts.gov.in/hcservices/>



25.3.2019) and quash the same and consequently direct the 2nd respondent to sanction the medical reimbursement of Rs.1,51,662/-, the medical expenses incurred by the petitioner.

For Petitioners : Mr.V.Kannan
For RR1 to 4 : Mr.A.K.Manikkam,
Special Government Pleader
For R5 : Mr.A.Shajahan

O R D E R

The order of rejection rejecting the medical reimbursement claim of the petitioner (died) is under challenge in the present writ petition.

2.The writ petitioner (died) was working as Secondary Grade Teacher in TDTA Middle School, Konganathanparai Village, Tirunelveli District, which is a Government Aided School. The petitioner (died) admittedly was a member of the New Health Insurance Scheme, 2014 and therefore, is entitled for medical reimbursement.

3.The learned counsel for the petitioners made a submission that the petitioner (died) was suffering with severe cardiac problems on 20.02.2018 and she was unable to breath and suddenly admitted in the hospital viz., TDTA Bell Pins Indrani Chelladurai Mission Hospital, Palayamkottai. She underwent treatment for cardiac problems and after taking treatment as inpatient in the hospital, was discharged on 27.02.2018. The petitioner (died) incurred an expenditure of Rs.1,51,662/- and along with the receipts, she submitted an application for medical reimbursement. The authorities rejected the claim on the ground that "procedure is not covered".

4.It is not in dispute between the parties that the Government Order issued in G.O.Ms.No.171, Finance (Pension) Department, dated 26.06.2014 is the guideline issued for considering the case for medical reimbursement. Annexure-II to the Government Order provides 'List of Accredited Treatments and Surgeries Under New Health Insurance Scheme, 2014 for Pensioners (including spouse/family pensioners)'. Accordingly, Cardiology and Carido Thoracic Surgery has been contemplated. Sub-clause (c) provides "Correction of all Congenital Heart Diseases". Therefore, wherever the treatments are taken for congenital heart diseases and for correcting such diseases, medical reimbursement claim is admissible. However, the Government Order does not explain the nature of corrections which all are approved for claiming medical reimbursement.

5.The learned counsel appearing on behalf of the 5th respondent- Insurance Company referred to the guidelines issued by the Finance Department in letter dated 01.11.2019. Clause III(f) of the letter



"If the patient has undertaken an unapproved treatment/surgery under Emergency in any hospital, then the Insurance Company is not liable to make payment. It is the responsibility of the Government to reimburse medical claims as per the rates mentioned under the Tamil Nadu Medical Attendance Rules (revised)."

6. With reference to the above letter, the learned counsel for the Insurance Company reiterated that if certain procedures are not contemplated under G.O.Ms.No.171 and if the treatment is taken with reference to the other procedures, then the Government alone has to consider for grant of medical reimbursement and not the Insurance Company. However, the dispute in respect of the terms and conditions of the contract between the Insurance Company and the Government cannot be adjudicated in the present writ petition. It is for the Government and the Insurance Company to resolve such disputes, if any arise.

7. As far as the petitioner (died) is concerned, she is a pensioner and is eligible for medical reimbursement. The treatment taken is broadly falling under the approved treatment of "Correction of all Congenital Heart Diseases". When it is falling under the list of treatments provided under the cardiology head, and such a treatment is not disputed, then the petitioner (died) is entitled to get the medical reimbursement. What is to be verified is the genuinity of the treatment taken by the petitioner (died) and also in respect of the nature of the treatments which all are approved under the Government Order. When a broad classification under the 'Cardiology and Cardio Thoracic Surgery' is provided, all the treatments relating to congenital heart diseases are included broadly and there is no specification in respect of the nature of corrections which all are approved under the above head. Thus, this Court is of the considered opinion that the welfare scheme cannot be unnecessarily restricted to the disadvantage of the employees.

8. Health Insurance Scheme for providing better health and decent medical treatment is an integral part of Article 21 of the Constitution of India. Right to life includes a decent medical treatment. This being the scope of the fundamental right, the welfare schemes introduced for the purpose of providing medical treatment cannot be interpreted unnecessarily to the disadvantage of the employment, who are otherwise entitled for the medical reimbursement. In the present case, the petitioner (died) admittedly was suffering from breathing trouble and she was immediately admitted and provided with the treatment for correction. Therefore, it is falling under the approved treatment contemplated in G.O.Ms.No.177, which includes "Correction of all Congenital Heart Diseases". In view of the above position, the petitioner (died) is eligible for medical reimbursement as per her eligibility.



9. In view of the facts and circumstances, the impugned order passed by 2nd respondent in proceeding in Na.Ka.No.4764/2018/N1 dated Nil.03.2019 is quashed and accordingly, respondents 1 to 4 are directed to settle the medical reimbursement claim of the writ petitioners within a period of 12 weeks from the date of receipt of a copy of this order.

10. With the above directions, this Writ Petition is allowed. No costs.

Sd/-

Deputy Registrar (A/c)

// True Copy //

/ /2022

Sub Assistant Registrar (CS)

abr

To

1. The Secretary to Government,
Finance (Pension) Department,
Government of Tamilnadu,
Chennai-9.

2. The District Treasury Officer,
District Treasury,
Tirunelveli District,
Tirunelveli-9.

3. The Chairman/District Collector,
The District Level Empowered Committee,
Tirunelveli District, Tirunelveli.

4. The Joint Director of Medical & Rural Health Services,
Tirunelveli District,
Tenkasi, Tirunelveli District.

+1 CC to M/s.V.KANNAN, Advocate (SR-8118[F] dated 23/02/2022)

+1 CC to M/s.A.SHAJAHAN, Advocate (SR-8013[F] dated 23/02/2022)

+1 CC to M/s.SPL GP (SR-8070[F] dated 23/02/2022)

W.P. (MD) No.17311 of 2019

22.02.2022

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