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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **29.08.2022**

CORAM:

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

W.P.(MD)No.4980 of 2018
and
W.M.P.(MD)No.4970 of 2018

M.Murugan ... Petitioner

/vs./

1.The State of Tamilnadu,
Rep. By Additional Secretary,
Finance Department,
Fort.St.George, Chennai-9.

2.The District Collector,
Theni District.

3.The Joint Director of Medical and
Rural Health Services Department,
Theni District. ... Respondents

(R3 is suo motu impleaded vide Order of this Court dated 29.08.2022.)

PRAYER**:** Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus to call for the records relating to the impugned order passed by the 1st respondent in G.O.Ms.No.675, Finance(Pay) Department dated 21/08/2017, quash the same and further directing the

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respondents to reimburse the amount of Rs.1,47,280/-(Rupees one lakh forty seven thousand two hundred and eight only) for getting treatment at Sree Chithirai Thirunal Hospital, Thiruvananthapuram for the Heart Disease from 19/02/2012 to 22/02/2012.

For Petitioner : Mr.U.Antony Santhosh
For Respondents : Mr.A.Sivanupandian
Government Advocate

ORDER

The petitioner herein had suffered from Heart Attack in the month of February, 2012, for which, he had taken some medical treatment incurring expenses. His claim for medical reimbursement for the treatment was rejected by the Government, through the impugned order, dated 21.08.2017, by stating that the treatment was taken in a non-scheduled hospital under the New India Health Insurance Scheme, 2003 and therefore, M/s.Star Health Allied Insurance Company cannot reimburse such payments.

2.The reasoning adopted by the Government in this regard cannot be sustained, in view of the various decisions of this Court that when an employee /

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pensioner takes treatment in a non-network hospital, eligible expenses require to be reimbursed by the Government under the Tamil Nadu Medical Attendance Rules. In one such decision of the Hon'ble Division Bench of this Court, in the case of **Star Health and Allied Insurance Company Limited** -vs- **A.Chokkar** reported in **2010 (2) LW 90**, this proposition was laid down in the following manner:

> *"24. In the present case, what we have to decide is whether the State is bound to reimburse the claim, whether the insurance company is bound to indemnify the beneficiary for the claim made by him. As held in the decisions referred to above, the insurance company is strictly bound to strictly by the terms of contract and cannot be asked to settle a claim which does not fall within the terms of the contract and therefore the claim made by the beneficiaries in respect of treatments that were taken in a Non-Network hospital or for reimbursement of the claim made the insurance company is not liable. For this reason, the insurance company had made it clear that only if the beneficiary took treatment in a Network hospital they would settle the claim and more importantly the facility itself is a cashless facility. The insurance company cannot pay cash and if we issue direction to the insurance company to reimburse the claim, we would be virtually re-writing the contract which we are not entitled to.*
>
> *25. The Tamil Nadu Medical Attendance Rules ("the Rules"*

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in short) clearly lay down the rules regarding dependents and who is entitled to medical concessions under the Rules. It also defines who is a well to do person. The Rules lay down the manner in which claims can be made. According to the learned Advocate General, these Rules are still in force and therefore when it is a claim not covered by the present Insurance Scheme, the Government Servants have the right to make their claims under the Rules. Therefore, as regards Category-A, where treatment has been taken in a NonNetwork hospital, the insurance company cannot be asked to cover the expenses, since the scheme itself make the Network hospitals as intrinsic. However, the Petitioner/Claimants were also not no remediless and that is why we will issue directions to the claimants to make an application under the Rules or go before the Redressal Committee."

3.Thus, the mere fact that the petitioner had taken treatment in a non-network hospital cannot be a reason for rejection and the Government would be the appropriate authority for disbursement of such benefits. Accordingly, the impugned order, dated 21.08.2017 is hereby quashed.

4.The claim for medical reimbursement by the petitioner herein is governed under the Government Order in G.O.Ms.No.202, Finance (Salaries) Department,

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dated 30.06.2016. As per the aforesaid GO, any grievance with regard to non-disbursement of the medical reimbursement shall be submitted to the Joint Director of Medical and Rural Health Services Department of the District concerned for placing the same before 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.

5.In the instant case, the respondents claim that such claim was not made before the Joint Director of Medical and Rural Health Services Department of the District concerned for the purpose of placing the same before the DLEC. Therefore, the Joint Director of Medical and Rural Health Services Department, Theni District, is suo-motu impleaded as the third respondent.

6.In this background, the petitioner is granted liberty to file a claim petition, before the Joint Director of Medical and Rural Health Services Department of the District concerned, who has been impleaded as the third

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respondent herein, who shall place the same before the DLEC for redressal of the petitioner's grievances. The DLEC, the second respondent, shall consider the claim of the petitioner atleast, within a period of four (4) weeks from the date of receipt of the claim petition. This Writ Petition stands disposed of accordingly. There shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

29.08.2022

Index : Yes / No
Internet : Yes / No
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TO:

1.The Additional Secretary,
Finance Department,
Fort.St.George, Chennai-9.

2.The District Collector,
Theni District.

3.The Joint Director of Medical and
Rural Health Services Department,
Theni District.

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M.S.RAMESH, J.

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Order made in
W.P.(MD)No.4980 of 2018

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29.08.2022

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