IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

234

CWP-18925-2020
Date of decision: 08.09.2022

RAJJAN DEVI ....Petitioner

VERSUS

STATE OF HARYANA AND OTHERS ....Respondents

CORAM : HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

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Present:- Mr. Ashok Kaushik, Advocate
for the petitioner.

Mr. Pankaj Mulwani, DAG, Haryana
for respondents No.1 & 2.

Mr. D.P. Gupta, Advocate
for respondent No.3

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VINOD S. BHARDWAJ, J. (Oral)

The present petitioner had been filed raising a challenge to the order dated 11.03.2019 (Annexure P-4) and 16.04.2019 (Annexure P-6) whereby the claim of the petitioner was dismissed on the grounds of delay instead of adjudicating the lis on merits.

2. The petitioner who is a widow of Sh. Shiv Lal Sharma, Deputy Ranger in the Forest Department has filed this petition claiming that her husband was holder of policy Nos. 1) 272400/48/2013/2020, 2) 272400/48/2014/1748, 3) 272400/48/2015/2264, 4) 272400/48/2016/2461 issued by respondent No.3. He retired from the Department of Forest on 09.06.1995 after completing of 37 years of service. Her husband was admitted to Fortis Escort Hospital, Faridabad from 01.10.2014 to 07.10.2014 and spent an amount of Rs. 1,86,022/-

on his treatment. Prior to the said period also he is admitted for treatment in different hospitals. He passéd away on 29.02.2016. Bills towards reimbursement of the medical expenses was submitted to the Department and some amount had been reimbursed as per Government norms. For the reimbursement of the balance amount, the same was furnished to respondent No.3 i.e. Insurance Company against Medical Claim Policy of her husband. Certain objections were initially raised and same were removed and detailed reply to the query was given on 01.08.2018, no action was taken thereupon. Resultantly, the petitioner approached the Insurance Ombudsman vide letter dated 15.02.2019. The aforesaid claim of the petitioner was dismissed vide order dated 11.03.2019 (Annexure P-4) on the ground that the same was time barred. The son of the petitioner was submitted an application for condonation of delay vide representation dated 18.03.2019, however, the said request was not considered and the request was dismissed vide order dated 16.04.2019 (Annexure P-6). Both the said orders are subject matter of challenge in the present petition.

3. Learned counsel appearing on behalf of the petitioner has drawn attention to the order dated 11.03.2019 whereby it was conveyed to the petitioner that the submission of the claim is barred by limitation in terms of Rule 14(3)(b) of the Insurance Ombudsman Rules, 2017 and the subsequent order passed on the application moved by the son of the petitioner for condonation of delay vide order dated 16.04.2019.

4. Learned counsel appearing on behalf of the petitioner contends that Rule 14 (4) of the Insurance Ombudsman Rules, 2017 empowers the ombudsman to condone the delay in such cases where

sufficient reasons for such a delay have been offered, after calling for the objections of the Insurer against the proposed condonation.

5. Learned counsel for the petitioner contends that he would be satisfied in case the claim is decided on merits.

6. Learned counsel representing respondent No.3 could not dispute the fact that the order dated 16.04.2019 passed by the Insurance Ombudsman dismissing the complaint No. CHD-G-050-1819-0818 to CHD-G-050-1819-0825 was on the ground of delay itself. He also could not controvert the fact that no reasons have been assigned by the Insurance Ombudsman regarding the circumstances given by the petitioner for delay in institution of the above complaint. It is also not controverted that Rule 14 (4) of the Insurance Ombudsman Rule, 2017 notified on 25.04.2017 specifically empowers the Insurance Ombudsman to condone the delay in institution of any complaint, upon furnishing sufficient reasons and after affording opportunity to the Insurer to file its objections.

7. I have heard learned counsel appearing on behalf of the respective parties. The order of dismissal of the complaint dated 16.04.2019 is a non speaking order and does not refer to the sufficiency of reasons given by the complainant for seeking condonation of delay in the institution of the said complaint.

8. As a result of the aforesaid dismissal, the petitioner has been deprived of her statutory remedy. The power to condone delay has been conferred on the Insurance Ombudsman so as to exercise judicial discretion in the event of existence of sufficient reasons for explaining delay in approaching the Insurance Ombudsman. The Ombudsman has,

however, chosen not to advert to the application or the reasons assigned by the applicant for seeking condonation of delay. Resultantly, statutory right of the petitioner to seek adjudication on her claim has been denied to her.

9. Accordingly, the present petition is allowed, the order dated orders dated 11.03.2019 (Annexure P-4) and 16.04.2019 (Annexure P-6) passed by the respondent-Insurance Ombudsman dismissing the complaint (supra) of the petitioner on the question of limitation and by observing the same to be time barred is set aside. The Insurance Ombudsman is directed to examine the complaint and pass appropriate orders on merits thereof.

10. Taking into consideration that the claim relates to the years 2014, 2015 and 2016, an earliest endeavour shall be made by the Insurance Ombudsman to adjudicate the complaint expeditiously.

(VINOD S. BHARDWAJ)
JUDGE

SEPTEMBER 08, 2022

Vishal sharma

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No