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W.P.No.120 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.07.2023

CORAM :
THE HONOURABLE MR. JUSTICE J.SATHYA NARAYANA PRASAD

Writ Petition No.120 of 2020
and
W.M.P.No.149 of 2020

Alaguvel

... Petitioner

Vs.

1.Union of India,
Rep. by its Secretary,
Ministry of Shipping Transport Bhavan,
No.1, Parliament Street,
New Delhi – 110 001.

2.The Chairman,
Chennai Port Trust,
Chennai – 600 001.

3.The Chief Medical Officer,
Chennai Port Trust Hospital,
Chennai – 600 001.

... Respondents

Writ Petition filed under Article 226 of Constitution of India, praying for issuance of Writ of Certiorarified Mandamus calling for the records in ref.No.A-2/964-19/H dated 19.07.2019 passed by the second respondent and ref.No.A-2/7275/18/H dated 20.11.2018 passed by the third respondent and



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quash the same and consequently direct the respondents herein to pay the reimbursement of the medical expenses of Rs.2,76,605/- to the petitioner.

For Petitioner : Mr.B.Gopalakrishnan

For Respondent 1 : No appearance

For Respondents 2 to 3 : Mr.Niranjan Rajagopal

ORDER

This writ petition has been filed by the petitioner seeking to call for the records in ref.No.A-2/964-19/H dated 19.07.2019 passed by the second respondent and ref.No.A-2/7275/18/H dated 20.11.2018 passed by the third respondent and quash the same and consequently direct the respondents herein to pay the reimbursement of the medical expenses of Rs.2,76,605/- to the petitioner.

2. Learned counsel for the petitioner submitted that the petitioner has worked as a Chief Store Supervisor in Medical Department, Chennai Port Trust for 37 years and retired from his service on 31.05.2015. After his retirement, he was paid one time lumpsum contribution for medical treatment of Rs.50,440/- vide chellan No.830 dated 03.06.2015. This being so, the



petitioner had severe abdominal pain and got admitted in Apollo Speciality Hospital, Teynampet, Chennai on 25.09.2018. The hospital authorities diagnosed his condition as Inflammatory Myofibroblastic Tumour and on the advice of the Medical Officer of the said hospital, the petitioner underwent surgery of Laparotomy Excision of Sarcoma and Right Hemicolectomy on 26.09.2018 as inpatient and discharged on 02.10.2018. For the said treatment, he has spent an expenses of a total sum of Rs.2,76,605/-.

3. Learned counsel for the petitioner further submitted that the petitioner sent a representation to the third respondent on 31.10.2018 along with medical bills and discharge summary issued by the hospital authority, requesting the third respondent for reimbursement of medical expenses. After receiving the said representation, the third respondent has sent a rejection letter on 20.11.2018 stating that “it is informed that your claim for reimbursement of Apollo Cancer Institute, Chennai-600 035 expenses shall not be entitled as per Chennai Port Trust Medical Officers opinion”. Hence, the petitioner preferred an appeal before the first respondent on 02.02.2019, requesting him to pay Rs.2,76,605/- as claimed in reimbursement petition. On 07.08.2019, the office of the second respondent sent a communication to the



petitioner stating that production of the original bills related to claim are available in A-2 Section, Medical Department and the same may be collected in person or through an authority representative with a copy of medical identity card and authorization letter signed by the claimant during the office hours within 15 days from the date of the receipt of the letter. As per the said letter, the petitioner has produced entire bills, discharge summary and identity card before the first respondent office.

4. However, the second respondent on 19.07.2019, rejected the petitioner's request and communicated the same in proceedings No.A-2/964/19/H stating that as per Chief Medical Officer's instruction, Dr.C.Anita, Sr.Medical Officer has reviewed the claim and opined that “the discharge summary of the said patient has been carefully scrutinized. It is found that the said patient is a case of Myofibroblastic Tumour since 2004. He is also on periodic annual follow up. He was diagnosed to have a recurrence of the disease pathology during his annual check and planned for an “Elective surgery” at Apollo Hospital. Hence Inflammatory Myofibroblastic Tumour” cannot be considered as an emergency for surgical intervention. Hence, retired employee cannot be considered for reimbursement and further his



representation also cannot be entertained”. Aggrieved over the rejection orders dated 20.11.2018 & 19.07.2019, passed by the second and third respondent, the petitioner has come forward with the present writ petition.

5. On behalf of second and third respondents, counter affidavit dated 08.12.2022 has been filed and for better appreciation, the relevant paragraphs of the said counter is extracted hereunder:

“4. I respectfully submit that any Port Authority Employee is entitled to the following rights and benefits subject to the qualifications prescribed in the 1994 Regulations:-

a) Medical Attendance in the Port Authority Hospital either as inpatient or outpatient depending on the nature of illness as per Regulation 4.

b) Reimbursement of hospital charges in cases where the Chennai Port Authority's Chief Medical Officer had given opinion for treatment from hospitals approved by the Port Authority as per Regulation 6.

c) Reimbursement of hospital charges in cases of emergency where the Chief medical officer had referred the case to any other hospital, whether such hospital had been included in the list of approved hospitals or not, as per Regulation 10.

d) Reimbursement of hospital charges in cases of emergency, where the employee was admitted in a hospital without reference from the chief medical officer. The chairman



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may sanction the hospital charges if satisfied about the genuineness of the case, as per Regulation 10.

6. I respectfully submit that the petitioner had recurrent Inflammatory Retroperitoneal Myofibroblastic Sarcoma and he has a long treatment history at Apollo Hospitals, Chennai since 2004 for the same. Initially, the concerned Apollo Hospital was one of the empanelled hospitals in Chennai Port Authority. Later in the year 2016 it was delisted due to the Ministry of Shipping's direction, as only the hospitals under CGHS Tariff are empanelled. After that delisting, the petitioner had taken 3 monthly checkups from the Consulting Oncologist at the Chennai Port Authority Hospital.

7. I respectfully submit that the petitioner had also undergone the routine annual check-up in the Chennai Port Authority Hospital. In that annual check-up conducted in September 2018, though a PET CT Scan he was diagnosed with recurrent Inflammatory Retroperitoneal Myofibroblastic Sarcoma. Therefore, an expert opinion was sought from an Oncologist from Chennai National Hospital, which is an empanelled hospital for Chennai Port Authority. The Oncologist suggested for a "Non-Operative Palliative Chemotherapy" and necessary procedures were made for scheduling that chemotherapy at the Chennai Port Authority Hospital itself. I respectfully submit that the petitioner has undergone treatment on his own accord at Apollo Multi Speciality Hospital, Chennai as an inpatient from 25.09.2018 to 02.10.2018 for Inflammatory Myofibroblastic Tumour (Mesenteric Mass), S/P Surgery (2004, 2006, 2014), S/P Chemotherapy, Hypertension and underwent a



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7. Learned counsel appearing for the respondents 2 & 3 submitted that as per Regulation 8 , Apollo Speciality Hospital, Teynampet, Chennai is not in the panel of approved hospitals referred by the Trust and even as per Regulation 10, if the hospitals where such treatment is undergone is not in the list of approved hospitals (Appendix II) prescribed under these regulations, the reimbursement will be limited to the expenditure that would have been incurred had the treatment been taken in an approved hospital.

8. Heard the learned counsel on either side and perused the materials available on record.

9. The main contention of the learned counsel appearing for the respondents 2 & 3 is that there is no emergency for the petitioner to go for surgery, as per the opinion of the Chief Medical Officer. Further, Apollo Speciality Hospital, Teynampet, Chennai is not in the list of approved hospital. The impugned order passed by the respondent dated 19.07.2019 has stated that “ The discharge summary of the said patient has been carefully scrutinised. It is found that the said patient is a case of Myofibroblastic Tumour since 2004. He is also on periodic annual follow up. He was



diagnosed to have a recurrence of the disease pathology during his annual check and planned for an “Elective Surgery” at Apollo Hospital. Hence “Inflammatory Myofibroblastic Tumour” cannot be considered as an emergency for surgical intervention and rejected the case of the petitioner for reimbursement of medical bills for a sum of Rs.2,76,605/- and the same was rejected solely on the opinion of Dr.C.Anitha, Sr.Medical Officer, on the instruction of Chief Medical Officer of Chennai Port Trust, hence

The reasons for not reimbursing the medical expenses to the petitioner is for the following reasons:

1. Apollo Cancer Institute, Teynampet, Chennai is not in the panel of approved hospitals of the Chennai Port Trust.
2. There is no surgical emergency situation which warrants the petitioner to go for surgery as per the opinion of the Medical Officer, Chennai Port Trust.
3. Regulation 8 and 10 of the Chennai Port Trust Employees' (Medical Attendance in the Trust's Hospital and Reimbursement of Hospital Charges) Regulations 1994. For better appreciation, the above said regulations are extracted hereunder:

8. CONDITIONS FOR REIMBURSEMENT:



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(a) Reimbursement of Hospital Charges in respect of cases referred to by the Trust. The hospital charges in respect of cases referred to by the Trust's Chief Medical Officer to any of the approved hospitals listed below (hospitals indicated at S.No.7 to 17 of Appendix II) or any other private hospitals with the sanction of Deputy Chairman/Chairman shall be paid by the Board direct to the concerned hospitals on receipt of necessary bill, duly certified by the Trust's Chief Medical Officer:-

(i) Government Mental Hospital, Chennai.

(ii) Government Kasturba Gandhi Hospital for Women and Children, Chennai (iii) Government Hospital for Women and Children Chennai.

(iv) Government Stanley Hospital, Chennai.

(v) Government General Hospital, Chennai.

(vi) Government Royapettah Hospital, Chennai.

(vii) Government Kilpauk Medical College Hospital, Chennai.

(viii) Government Ophthalmic Hospital Chennai.

(ix) Government Raja Sir Ramaswamy Mudaliyar's Lying-in-Hospital, Chennai.

(x) Arignar Anna Government Hospital of Indian Medicines, Chennai.

(xi) Government Dental College Hospital, Chennai.

(b) In cases where the employees and/or their family members undergo treatment in any of the approved hospitals listed in Appendix II other than those mentioned in Clause (a) above to which a reference was made by the Trust's Chief Medical Officer, the hospital charges in respect of all such



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cases shall be reimbursable to the employee concerned provided the entire amount due to the Hospital is paid by the employee concerned before a claim for reimbursement is submitted to the sanctioning authority. However, in case of death of an employee while under treatment in such an approved hospital, which is not covered under clause (a) above, the Chairman may at his discretion sanction an advance to meet the hospital charges based on the recommendations of the Chief Medical Officer and also subject to fulfillment of other conditions laid down under these regulations.

NOTE: Artificial eye and denture are provided to the employees and their family members free of charge for which they will only be referred to the Government Ophthalmic Hospital and Government Dental College Hospital and no reimbursement is allowed for such cases if they avail these facilities from outside on their own.

10. TREATMENT OF EMERGENCY CASES:

Notwithstanding anything contained in these regulations, in cases of emergency – (i) The Chief Medical Officer may refer cases, with the sanction of the Chairman to any hospital (within the City of Chennai or outside) whether such hospital has been included in the list of 'approved hospitals' (Appendix II) or not. In such cases the employee concerned is eligible for reimbursement of hospital charges under these regulations subject to the Chief Medical Officer certifying that the accommodation, diet, treatment and other medical facilities availed of by the employee or his family members were necessary.



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(ii) Where due to emergency, an employee or member of his family has to be admitted in a hospital without a reference from the Chief Medical Officer, the Chairman at his discretion may sanction the reimbursement of the hospital charges if he is satisfied about the genuineness of the case. If the hospital where such treatment is undergone is not in the list of approved hospitals (Appendix II) prescribed under these regulations, the reimbursement will be limited to the expenditure that would have been incurred had the treatment been taken in an approved hospital.

10. It is an admitted fact that the petitioner is suffering from tumour from the year 2004 and he has been on periodical follow up and the rejection of the reimbursement of the bills by the third respondent was solely based on the opinion of the Senior Medical Officer is not sustainable for the reason that opinion may differ from one Medical Officer to another Medical Officer, since the petitioner was under going treatment at the Apollo Speciality Hospital, Tenampet, Chennai, the concerned Medical Officer there adviced the petitioner to go for immediate surgery, since it is an emergency, the petitioner underwent the surgery on 26.09.2018 and discharged from hospital on 02.10.2018. It is for the petitioner to decide, whether to go for surgery or



not. Since, his survival itself is in question, the third respondent cannot reject the claim of the petitioner solely on the ground that the Senior Medical Officer of the Chennai Port Trust stated that surgery is not emergency for surgical intervention.

11. The person, who is having a tumour, that too from the year 2004, is always in danger and anything may happen at any time and it is not like any other disease. Hence, as per the advice of the doctors of the Apollo Speciality Hospital, Tenampet, Chennai, the petitioner undergone surgery, which cannot be a denial for reimbursement of the medical bills. The petitioner having served for 37 years in the Medical Department of Chennai Port Trust and retired from service on 31.05.2015. The third respondent ought to have considered his case, atleast as per Rule 10 of the Chennai Port Trust Employees' (Medical Attendance in the Trust's Hospital and Reimbursement of Hospital Charges) Regulations 1994.

12. This apart, the petitioner preferred an appeal dated 02.02.2019 to the second respondent and he has not made any endorsement according to the impugned order passed by the third respondent since



the Deputy Chairman is the Appellate Authority for reimbursement even though the appeal is addressed to the second respondent the Deputy Chairman approval was requested and same was also obtained before communicating the impugned order to the petitioner.

13. The rejection of reimbursement of medical bills of the petitioner by the third respondent was solely on the opinion of Senior Medical Officer of the Chennai Port Trust is unsustainable for the aforesaid reasons and the same is liable to be quashed.

14. It is pertinent to note that though the Appellate authority for the reimbursement of Medical bills is the Deputy Chairman, but there is no order passed on the appeal dated 02.02.2019 filed by the petitioner and the impugned order is also unsustainable on this ground.

15. The impugned order passed by the third respondent is without jurisdiction since the appellate authority for medical reimbursement bill is Deputy Chairman and on this ground also the order passed by the



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18. This writ petition is allowed with the above direction. No costs.

Consequently, connected miscellaneous petition is closed.

28.07.2023

(vm)

Index : Yes/No

Speaking Order : Yes/No

J.SATHYA NARAYANA PRASAD,J.

vm

To:

1.The Secretary,
Ministry of Shipping Transport Bhavan,
No.1, Parliament Street,
New Delhi – 110 001.

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2.The Chairman,
Chennai Port Trust,
Chennai – 600 001.

3.The Chief Medical Officer,
Chennai Port Trust Hospital,
Chennai – 600 001.

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