IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.10.2023

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.No.10414 of 2020

R.Jayam ... Petitioner

versus

1.The Director,
Rural Development Department,
Chennai - 600 006.

2.The District Collector,
Namakkal District,
Namakkal.

3.District Treasury Officer,
District Treasury Office,
Namakkal.

4.The United India Insurance Company,
Divisional Office VI,
PLA Rathina Towers,
5th Floor, 212, Anna Salai,
Chennai.

5.SIMS Chellum Hospital,
31/3-C, Vijayaragavachari Road,
Off. Gandhi Road,
Salem - 636 007. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order passed by the first respondent in ஒ.மு.எண்:6361/கபி1/3/2019 dated 26.08.2019 and quash the same and consequently direct the first respondent to sanction the medical reimbursement amount of Rs.3,78,423/- (Rupees Three Lakhs and Seventy Eight Thousand and Four Hundred and Twenty Three only) to the petitioner.

For Petitioner	:	M/s.A.Rajaram
For Respondent Nos.1 to 3 & 5	:	M/s.P.Rajarajeswari Government Advocate
For Respondent No.4	:	Mr.P.Sankaranarayanan

O R D E R

The petitioner has filed this petition seeking for a writ of certiorarified mandamus, calling for the records pertaining to the impugned order dated 26.08.2019 passed by the first respondent and quash the same and consequently direct the first respondent to sanction the medical reimbursement amount of Rs.3,78,423/- (Rupees Three Lakhs and Seventy Eight Thousand and Four Hundred and Twenty Three only) to the petitioner.

2. The petitioner, who was working as Sub Inspector of Police, has retired on 31.10.2008. He is also subscribing to the New Health Insurance Scheme, 2014, for family pensioners from the date of his

retirement. The petitioner suffered with Chronic Bronchia Asthma, Bilateral Bronchiectasis (Secondary Infection), SVT, Abscess left fore foot / I & D. So he was admitted in the fifth respondent Hospital on 11.07.2017 and a surgery was performed on 26.07.2017. He made a representation to the respondents on 29.04.2019 for claiming the medical expenses of Rs.3,78,423/- from the fourth respondent Insurance Company. But his claim was rejected by the first respondent by stating that the Hospital in which the petitioner had taken treatment does not fall under the list accredited Hospital. Further the ailment for which the petitioner had undergone surgery also is not covered under the Scheme.

3. Even though the petitioner might not get the direct benefits of the Insurance Scheme, in view of the reasons stated by the fourth respondent, he is always eligible to get the medical benefits under the Tamil Nadu Medical Attendance Rules. In this regard, it is relevant to refer the judgment of the Division Bench of this Court held in ***Star Health and Allied Insurance Co.Ltd. Vs. A.Chokkar*** reported in ***MANU/TN/0618/2010*** wherein it is held as under:-

*"**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" 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 non-network hospital, the insurance company cannot be asked to cover the expenses, since the scheme itself makes the network hospitals as*

intrinsic. However, the petitioners/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.

***26**. Before taking up the individual cases, we must record that there are certain situations which may arise and in fact which have arisen, for which the Government must issue clear guidelines. This the Government has to do, since it has made the Scheme obligatory for everyone and there is automatic deduction of premium to an extent of Rs.25/- per month. The directions are as follows:*

(i)The State shall make it clear that if for some reason, which is satisfactory, the claimant is unable to take treatment in a network hospital but has been advised or had to go to a non-network hospital, then his claim would be considered under the Rules.

(ii)If the claimant has been advised some procedure which is not covered by the Scheme, there again, it must be made clear that he can apply under the Rules.

(iii)To safeguard duplication of payments, the Government can make sure and when they apply under the Rules, that the claimant himself certifies that he has not made claim under the Scheme or vice-versa.

(iv)The State shall inform every network hospital that if it receives complaints from claimants that money was demanded for admission or for treatment, then that hospital will be removed from the network. This warning is necessary, since, at times of crisis, the claimants will not be in a position to argue with the hospital that this is a "cashless" Scheme. We are aware that there is an officer of the

Star Health Insurance Company at every network hospital to ensure that hospitals adhere to the terms of the Scheme but, yet, it is better to make this position clear to the hospitals, since one of the questions that has arisen before us is that whether the claimants will be entitled to reimbursement if, by mistake, they pay cash."

4. In view of the above settled legal position, it is up to the petitioner to avail the medical benefits under the Tamil Nadu Medical Attendance Rules and which is always available to the persons in Government service / pensioners. Hence, this Writ Petition is disposed and the petitioner is at liberty to make medical reimbursement claim under the New Health Insurance Scheme, within a period of two (2) weeks from the date of receipt of a copy of this order. In the event of making such claim, the respondents 1 and 2 shall consider the same and sanction the medical reimbursement in accordance with the Tamil Nadu Medical Attendance Rules, within a period of four (4) weeks. No costs.

06.10.2023

Speaking order / Non-speaking order
Index : Yes / No
Neutral Citation : Yes / No

sri

To

1.The Director,
Rural Development Department,
Chennai - 600 006.

2.The District Collector,
Namakkal District,
Namakkal.

3.The District Treasury Officer,
District Treasury Office,
Namakkal.

4.The United India Insurance Company,
Divisional Office VI,
PLA Rathina Towers,
5th Floor, 212, Anna Salai,
Chennai.

5.SIMS Chellum Hospital,
31/3-C, Vijayaragavachari Road,
Off. Gandhi Road,
Salem - 636 007.

R.N.MANJULA, J.

sri

W.P.No.10414 of 2020

06.10.2023