IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.06.2023

CORAM :

THE HONOURABLE MR.JUSTICE P.B.BALAJI

W.P.No.36823 of 2016

P.K.Palaniswamy ... Petitioner

Vs.

1.The District Collector,
Thirupur District, Thirupur.

2.The Treasury Officer,
Treasury Office,
Thirupur.

3.The Deputy Treasury Officer,
Sub Treasury Office,
Kangaiyam.

4.The Managing Director,
United India Insurance Company Limited,
Divisional Office VI,
PLA Rathana Towers,
5th Floor, 212, Anna Salai,
Chennai – 600 006. ... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents more particularly the fourth respondent to pay and make good to the petitioner the sum of Rs.1,23,158/- (Rupees One Lakh Twenty Three Thousand One Hundred and Fifty Eight only) towards the medical expenses incurred by the petitioner for the treatment undergone "for the left Knee arthrotomy and subtotal syrovectomy medical treatment" at "PSG hospitals", Avinashi Road, Peelamedu, Coimbatore as per his representation made to the second respondent on 18.02.2015.

For Petitioner	:	Mr.S.Vijayanand
For Respondents	:	
For R1 to R3	:	Mr.M.S.Premkumar Government Advocate
For R4	:	Mr.P.Sankaranarayanan

ORDER

The petitioner has filed the present writ petition seeking issuance of a Writ of Mandamus, to direct the fourth respondent Insurance Company to pay by way of indemnification a sum of Rs.1,23,158/- being medical expenses incurred by the petitioner for the treatment undergone by him in line with his representation to the second respondent on 18.02.2015.

2. The case of the petitioner is that he was employed as Physical Education Teacher in Government Higher Secondary School at Kangayam. He retired from service in the year 1995. He is covered under the New Health Insurance Scheme (NHIS) for the pensioners (including spouse)/family pensioners, 2014.

3. In December 2014, the petitioner fell ill and he was admitted to PSG Hospitals, Coimbatore on 12.12.2014 and he was advised emergency procedure by way of a surgery on his left knee and on the very same date, he underwent surgery and a further surgery on 22.12.2014. Later, he was discharged from the hospital on 31.12.2014. Subsequently, he made a representation dated 18.02.2015, to the second respondent by enclosing all the bills and records of the hospital and requested for reimbursement of the surgery expenses etc. The first respondent wrote to the third respondent vide communication dated 29.06.2015, informing the fourth respondent about the claim for reimbursement. However, the fourth respondent rejected the claim of the petitioner.

4. The grievance of the petitioner is that, by way of subscription, a sum of Rs.150/- per month, is deducted from the pensionary amount payable to him and his claim has to be processed favourably.

5. Despite a procedure prescribed under G.O.Ms.No.171, Finance (Pension) Department dated 26.06.2014, the fourth respondent has unilaterally rejected the petitioner's claim even though the District Empowered Committee recommended the petitioner's case for reimbursement.

6. Though the petitioner has sought for a direction to be issued to the fourth respondent/Insurance Company to reimburse the expenses incurred by the petitioner by way of medical expenses, the issue in this regard is no longer *res integra* and squarely covered by the Judgment of the Division Bench of this Court in W.A.(MD)No.480 of 2009 and a batch of writ petitions in W.P.(MD)Nos.1699 of 2009 dated 26.02.2010 in the case of **Star Health and Allied Insurance Company Limited, represented by its Project Officer** Vs **A.Chokkar and another**.

7. The Hon'ble Division Bench of this Court after considering the case of

various petitioners with regard to their entitlement for reimbursement towards medical expenses incurred and also taking into account the New Health Insurance Scheme (NHIS) Rules, 2007 and also the Tamil Nadu Medical Attendance (TNMA) Rules, held that the Insurance Company is not bound to indemnify the claim of the beneficiaries as the Insurance Company is strictly bound by the terms of contract.

8. The Hon'ble Division Bench of this Court also directed that the Government having made the New Health Insurance Scheme (NHIS) obligatory for other employees as there is an automatic deduction of premium, the State should step in and meet the expenses of the employees concerned.

9. The Hon'ble Division Bench of this Court has also issued directions to the State Government in this regard and ultimately held that the Government will have to make the payment under the Rules namely TNMA Rules.

10. Though the Hon'ble Division Bench of this Court had directed certain individual cases in the said batch of writ petitions and writ appeal to approach the Redressal Committee to decide whether the procedure is covered or not and also to go into other issues that may arise in the facts of those cases, it is seen

that in the present case, the petitioner's claim has been recommended by the District Empowered Committee and came to be rejected by the State Level Committee only.

11. The exercise of now directing the petitioner to go before the Redressal Committee would be a futile exercise. The relevant Government Order namely G.O.Ms.No.171, Finance (Pension) Department dated 26.06.2014, relates Redressal of Grievances. Clause 12 (a) and 12(b) of the aforesaid Government Order are extracted hereunder:-

> "12. Redressal of Grievances:
>
> (a) Any complaints about difficulty in availing accredited treatments/surgeries, non-availability of facilities, bogus availment of treatment for ineligible individuals etc., shall be submitted to the Pension Pay Officer, Chennai and other districts to the District Treasury Officers at the District Headquarters. The complaints received shall be placed for decision of an Empowered Committee at District Level headed by the District Collector, having the Joint Director of Medical and Rural Health Services Department and the Pension Pay Officer, Chennai/District Treasury Officer concerned as the case may be and a official representative of the United India Insurance Company as member. In respect of Pensioners/Family Pensioners drawing pension/family pension directly from Banks under Public Sector Bank Schemes, the complaints if any shall be sent to the Director of Treasurers and Accounts, Chennai.
>
> (b) An appeal against the decision of the District Level Empowered Committee may be preferred by the Pensioners/Family Pensioners to the State Level Empowered Committee headed by the Director of Treasuries and Accounts and having the Director of Medical and Rural Health Services as Member Secretary and an

official representative nominated by the United India Insurance Company as members."

12. Here in the instant case, the District Level Empowered Committee has already recommended the claim for reimbursement. There is no procedure contemplated in G.O.Ms.No.171, Finance (Pension) Department dated 26.06.2014, where, the State Level Empowered Committee can reject or over turn such recommendation of the District Level Empowered Committee. In fact clause 12(b) only provides for an appeal against the decision of the District Level Empowered Committee by the pensioners/family pensioners to the State Level Empowered Committee.

13. However, it is seen that the State Level Empowered Committee in the instant case, which is also referred to in the Counter Affidavit filed by the third respondent has rejected the claim of the petitioner though reliance is placed under G.O.Ms.No.171, Finance (Pension) Department dated 26.06.2014.

14. The counter affidavit does not substantiate the reasons for such rejection, especially when the District Level Empowered Committee had

recommended the petitioner's claim for reimbursement. The Government Order also does not contemplate a scenario where, once the District Level Empowered Committee recommends a claim, the State Level Empowered Committee can overrule the decision or recommendation.

15. As already discussed above, even an appeal is provided only for the pensioners/family pensioners and not to the State, the petitioner also has not been put a notice about any such rejection and in the entire counter affidavit, it is stated that the fourth respondent Insurance Company has to reimburse the medical expenses. For the first time, it is brought to the notice of the Court, even the State Level Empowered Committee has rejected the petitioner's claim in terms of G.O.Ms.No.171, Finance (Pension) Department dated 26.06.2014.

16. In any event, the petitioner ought to have been put on notice before the District Level Empowered Committee, passed any order of rejection as claimed in their counter affidavit.

17. For the foregoing reasons, this Writ Petition is disposed of with the following directions:-

(1) The fourth respondent/Insurance Company cannot be saddled with

the liability and consequently, the fourth respondent/Insurance Company is not bound to indemnify or make good the medical expenses incurred by the petitioner.

(2) The second and third respondents are bound to reimburse the medical expenses incurred by the petitioner and they are directed to reconsider the claim of the petitioner in the light of the recommendation of the District Level Committee dated 29.06.2015 and pass orders on the petitioner's claim, within a period of four (4) weeks from the date of receipt of a copy of this order. No costs.

26.06.2023

Index : Yes / No
Internet : Yes / No
Speaking Order/Non-Speaking Order
Neutral Citation : Yes / No

arb

P.B.BALAJI, J.

arb

To

1.The District Collector,
Thirupur District, Thirupur.

2.The Treasury Officer,
Treasury Office,
Thirupur.

3.The Deputy Treasury Officer,
Sub Treasury Office,
Kangaiyam.

W.P.No.36823 of 2016

26.06.2023