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W.P. No. 21884 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.04.2023

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 21884 of 2022

G.Gnanamani

... Petitioner

-VS-

1. The Government of Tamil Nadu
Rep.by its Deputy Secretary
Finance (Pension) Department
Secretariat, Chennai-600 009.
2. The Commissioner
Treasury & Accounts Department
Nandanam, Chennai-600035.
3. The Joint Director
Joint Directorate of Medical &
Panchayat Welfare Works
Vellore District.
4. The District Collector
Head of District Power Committee
District Collector Office, Vellore
and District.
(R4 impleaded vide order dated 12.04.2023
made in WMP No.23540/2022 in W.P.No.
21884/2022 by PDAJ)

...

Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Mandamus directing the 2nd respondent to issue the order of medical reimbursement to the petitioner as per the petitioners



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representation dated 06.07.2022.

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For Petitioner : Mr. M.Thamizhavel
For Respondents : Mr. R.Karthik Jegannath
Government Advocate
(R1 to R4)

ORDER

Heard Mr. M.Thamizhavel, Learned Counsel for the Petitioner, and Mr. K.Karthik Jegannath, Learned Counsel for the First to Fourth Respondents and perused the materials placed on record, apart from the pleadings of the parties.

2. The Petitioner, who is receiving pension on retirement from service as Secondary Grade Teacher in Thiruvalluvar Higher Secondary School, Gudiyatham, Vellore, has availed the benefits of the New Health Insurance Scheme, 2018, for Pensioners of the Government of Tamil Nadu in G.O. Ms. No. 222, Finance (Pension) Department dated 30.06.2018 by making periodical contributions towards insurance premia from her pension. It is the case of the Petitioner that she had underwent surgery for knee joint pain on 17.12.2020 at Manipal Hospital, Bengaluru and had incurred medical expenses of Rs. 3,04,515/- in that regard. When the Petitioner made a claim for



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reimbursement of the said medical expenses under the New Health Insurance Scheme, 2018, she was directed to be present on 06.07.2021 in Vellore Government Hospital along with documents such as original bills, discharge summary etc., and though she attended the same, there was no response thereafter. The Petitioner had sent several representations to the Respondents in that regard which did not evoke any response. In that backdrop, the Petitioner has filed this Writ Petition for directing the Second Respondent to reimburse the medical expenses incurred by her.

3. In furtherance to the order dated 12.04.2023, the Second Respondent has filed status report dated 25.04.2023 stating as follows:-

“3. It is submitted that the writ petitioner's case was placed before the District Level Empowered Committee (DLEC) and on 06.07.2021, the Petitioner had approached before the DLEC and submitted the documents. Thereupon, the DLEC had recommended and forwarding the case of the Petitioner to the United India Insurance Company. On 13.12.2021 the United India Insurance Company has written to the Third Respondent requesting to produce all



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the original documents so as to process and settle the case of the Petitioner.

4. *It is submitted that on receipt of the letter of the United India Insurance Company dated 13.12.2021, the Third Respondent on 03.03.2022 sent a letter to the Petitioner intimating the United India Insurance Company's request and intimated the Petitioner to furnish all the original documents but the same was not served on the Petitioner at the address. Ultimately, on 24.02.2023, the Petitioner had come forward and furnished the relevant document to the Treasury Office Vellore and on the same day (24.02.2023) vide letter Rc.No.1657/2021/R1 the Treasury Office Vellore, had forwarded the Petitioner's documents to the United India Insurance Company. In this regard, it is further submitted that the United India Insurance Company by e-mail dated 17.04.2023, has stated that the documents pertaining to the writ petitioner was received by them on 14.03.2023. Now, the present status report has been received from the United India Insurance*



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Company by e-mail, dated 25.04.2023, wherein it is stated that “with reference to the legal claim of Mrs.G.Gnanamani we have discussed with the competent authority who have on perusal of papers confirmed that it is a covered procedure Non emergency treatment undertaken in Non network hospital which is not payable by UIIC.”

It is further submitted that the UIIC has rejected the reimbursement claim of the Petitioner, the Second Respondent is taking action to place the claim of the Petitioner again in DLEC duly informing the present stand of the UIIC and to recommend the Petitioner's claim as per the Guidelines issued by the Government so as to consider the case of the Petitioner under the Tamil Nadu Medical Attendance Rule.”

It is now trite as held by the Division Bench of this Court in ***Star Health and Allied Insurance Company Ltd. –vs- A.Chokkkar*** [(2010) 2 LW 90] that when the Insurance Company is not liable to reimburse the medical expenses under the New Health Insurance Scheme to the Government Servants/Pensioners, it would have to be processed under the Tamil Nadu Medical Attendance Rules by



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the Head of the Office with the concerned Department in which that employee had served and pay the eligible amount to him. In this context, it would also be useful to refer to clause 14(4) of the Guidelines for Implementation of New Health Insurance Scheme, 2018, for Pensioners (including Spouse)/Family Pensioners in the Appendix to G.O. Ms. No. 222, Finance (Pension) Department, dated 30.06.2018 issued by the Government of Tamil Nadu, which is extracted below:-

“14.(4) In case, a Pensioner/Family Pensioner undergoes emergency treatments/surgeries not covered under this Scheme in either Network Hospital or Non-Network Hospital, no claim can be filed under the Health Insurance Scheme. However, they shall be eligible for claim to the extent permissible under the Tamil Nadu Medical Attendance Rules and the G.O. Ms. No. 1023, Health and Family Welfare Department, dated 17.06.1980. It may be noted that the Tamil Nadu Medical Attendance Rules requires that treatment in private hospitals should not be resorted to except in case of emergencies. Clause 2(3) of the aforesaid Government Order states that in genuine cases of emergency, the claims will be restricted to the



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expenditure that would have been incurred had the patient taken treatment in a Government hospital excepting diet charges. For claims under Tamil Nadu Medical Attendance Rules, the Beneficiaries may apply to the authority in the department in which the Government employee last served who is competent to process and forward pension proposal to the Accountant General, Tamil Nadu. The Head of Office shall process the claims and pay the eligible claims under the Tamil Nadu Medical Attendance Rules.”

The guidelines issued in the aforesaid Governmental order, which are based upon the instructions provided in the earlier Government Orders and the Tamil Nadu Medical Attendance Rules, are obviously clarificatory in nature and would also apply to the present case.

4. The Hon'ble Supreme Court of India in ***Shiva Kant Jha -vs- Union of India*** [(2018) 16 SCC 187], dealing with unfair treatment meted out to several retired Government servants in their old age for medical reimbursement under similar provisions of the Central Government Health Scheme, has held as follows:-



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“13. With a view to provide the medical facility to the retired/serving CGHS beneficiaries, the Government has empanelled a large number of hospitals on CGHS panel, however, the rates charged for such facility shall be only at the CGHS rates and, hence, the same are paid as per the procedure. Though the Respondent-State has pleaded that the CGHS has to deal with large number of such retired beneficiaries and if the Petitioner is compensated beyond the policy, it would have large ramification as none would follow the procedure to approach the empanelled hospitals and would rather choose private hospital as per their own free will. It cannot be ignored that such private hospitals raise exorbitant bills subjecting the patient to various tests, procedures and treatment which may not be necessary at all times.

14. It is a settled legal position that the Government employee during his life time or after his retirement is entitled to get the benefit of the medical facilities and no fetters can be placed on his rights. It is acceptable to common sense, that



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case, by taking a very inhuman approach, the officials of the CGHS have denied the grant of medical reimbursement in full to the Petitioner forcing him to approach this Court.

15. *This is hardly a satisfactory state of affairs. The relevant authorities are required to be more responsive and cannot in a mechanical manner deprive an employee of his legitimate reimbursement. The Central Government Health Scheme (CGHS) was propounded with a purpose of providing health facility scheme to the Central Government employees so that they are not left without medical care after retirement. It was in furtherance of the object of a welfare State, which must provide for such medical care that the scheme was brought in force. In the facts of the present case, it cannot be denied that the Writ Petitioner was admitted in the above said hospitals in emergency conditions. Moreover, the law does not require that prior permission has to be taken in such situation where the survival of the person is the prime consideration. The doctors did his operation and had implemented CRT-D device and have done so*



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as one essential and timely. Though it is the claim of the Respondent-State that the rates were exorbitant whereas the rates charged for such facility shall be only at the CGHS rates and that too after following a proper procedure given in the Circulars issued on time to time by the concerned Ministry, it also cannot be denied that the Petitioner was taken to hospital under emergency conditions for survival of his life which requirement was above the sanctions and treatment in empanelled hospitals.”

5. In view of the aforesaid legal position coupled with the facts of this case, the following order is passed:-

- (i) it shall be incumbent upon the concerned authority of the Government of Tamil Nadu to examine the representation dated 06.07.2022 made by the Petitioner as a claim for reimbursement of medical expenses incurred by her under the Tamil Nadu Medical Attendance Rules forthwith;
- (ii) if it is found that any details or supporting documents satisfying the eligibility criteria for the actual amount claimed has not been produced,



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the deficiencies in that regard shall be informed in writing to the

Petitioner requiring the same to be furnished within a time frame of not

less than 15 clear working days in that regard;

- (iii) in the event of not being satisfied with the requirements thereafter, an enquiry shall be conducted affording opportunity of personal hearing to the Petitioner to explain her position in that regard and a reasoned order shall be passed dealing with each of the contentions raised on merits and in accordance with law with details of any deductions made under various heads and the decision taken communicated under written acknowledgment;
- (iv) if the Petitioner is found entitled to the claim made, the eligible amount with interest at the rate prescribed under the Rules and if no such rate of interest has been prescribed, at the rate of 6% per annum from the date on which the claim for reimbursement was made by the Petitioner, shall be disbursed within a period of 30 days from the date of passing of that order;
- (v) if the Petitioner still has any grievance to be redressed in the matter, she is not precluded from working out her rights before the proper forum in the manner recognized by law; and
- (vi) the report of completion of the aforesaid exercise shall be filed



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by 31.10.2023 before the Registrar (Judicial) of the Court.

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In the result, the Writ Petition is ordered on the aforesaid terms.

No costs.

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kst

Index: Yes/No

Neutral Citation: Yes/No

Note: Issue order copy by 31.07.2023.

To

1. The Deputy Secretary to Government of Tamil Nadu
Finance (Pension) Department
Secretariat, Chennai-600 009.
2. The Commissioner
Treasury & Accounts Department
Nandanam, Chennai-600035.
3. The Joint Director
Joint Directorate of Medical &
Panchayat Welfare Works
Vellore District.
4. The District Collector
Head of District Power Committee
District Collectorate Office, Vellore
and District.

Copy to

The Registrar (Judicial),
Madras High Court,
Chennai – 600 104.



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P.D. AUDIKESAVALU, J.

kst

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