



W.P(MD)No.19757 of 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 31.07.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.19757 of 2015

T.Punjab Sekar

... Petitioner

Vs.

1.The Commissioner,
O/o. the Commissioner of Treasuries and Accounts,
Tuticorin.

2.The Joint Director,
Medical and Rural Health Services,
Tuticorin.

3.The District Collector,
Tuticorin District,
Tuticorin.

4. The Divisional Manager,
United India Insurance Co. Ltd.,
Divisional Office VI,
Vth Floor, P.L.A.Rathna Towers,
212 Anna Salai,
Chennai – 600 006.

... Respondents



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Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records of the impugned letter dated 26.08.2014 issued by the 4th respondent and quash the same as illegal and consequently direct the respondents to pass appropriate orders to reimburse the amount of Rs.26,665/- as per G.O.Ms.No.243 Finance (Salaries) Department dated 29.06.2012 on the basis of the representation of the petitioner dated 01.08.2014.

For Petitioner : Mr.C.Arul Vadivel @ Sekar, Senior Counsel,
For Mr.J.selvam.

For Respondents : Mr.S.RA.Ramachandran,
Addl. Government Pleader for R1 to R3.
Mr.A.Shajahan,
Standing Counsel for R4.

ORDER

Heard the learned counsel on either side.

2.The writ petitioner is a practicing lawyer. His wife is working as a teacher in an aided school. The petitioner's wife joined the New health insurance scheme in the year 2012. As per the terms of the scheme



W.P(MD)No.19757 of 2015

issued vide G.O.(Ms)No.243 Finance Department dated 29.06.2012, the spouse of the scheme member is also eligible for the benefits of the scheme. The petitioner suffered from Chronic Hepatitis – B. He took treatment as outpatient at Christian Medical College Hospital, Vellore on 23.06.2014. The petitioner had incurred a sum of Rs.26,665/- towards medical treatment. The petitioner applied for reimbursement. The petitioner's claim was negated vide communication dated 26.08.2014. The rejection is put to challenge in this writ petition.

3.The learned senior counsel for the writ petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition and called upon this Court to set aside the impugned communication and grant relief as prayed for.

4.The learned standing counsel for the fourth respondent submitted that the petitioner has an effective alternative remedy of approaching the District Level Empowered Committee and that the fourth respondent shall abide by the decision of the District Level Empowered Committee. He called upon this Court to non-suit the petitioner on this ground. He



W.P(MD)No.19757 of 2015

also would add that the scheme contemplates cashless treatment and not reimbursement. He would also strongly contend that the petitioner had not taken treatment as inpatient. He drew my attention to the fact that in all the subsequent government orders, the requirement that the claimant must be an inpatient for not less than 24 hours has been specifically incorporated. He called upon this Court to sustain the impugned communication and dismiss the writ petition.

5.I carefully considered the rival contentions and went through the materials on record. If the adjudication involves going into disputed questions of fact, then I would certainly relegate the petitioner to go before the District Level Empowered Committee. But in this case, no such disputed question of fact has arisen for consideration. I reject the argument of the learned standing counsel grounded on non-exhaustion of alternative remedy.

6.Even though the learned standing counsel would contend that the scheme contemplates only cashless treatment, such a ground has not been taken in the impugned communication. What is not there in the



W.P(MD)No.19757 of 2015

impugned communication cannot be supplied during the course of argument or in the form of a counter.

7.The only ground on which the petitioner's claim has been negatived was that he was not an inpatient. As rightly pointed out by the learned senior counsel for the petitioner, G.O.(Ms)No.243 dated 29.06.2012 does not make a distinction between inpatient and outpatient. Therefore, what is not contemplated in the scheme cannot be a ground for rejection. It is true as pointed out by the learned standing counsel for the insurance company that subsequent government orders specifically contain this stipulation. But the petitioner's case is covered by G.O.(Ms)No.243 dated 29.06.2012 and not the subsequent government orders. Therefore, there is no reasonable basis for rejecting the petitioner's claim. The impugned communication is set aside. The petitioner shall resubmit his claim along with the relevant records such as discharge summary, identification card, bank passbok and first page of crossed cheque leaf. If due to lapse of time the petitioner is not having the original bills or discharge summary, he may enclose the photocopies. The fourth respondent is directed to pay the amount of Rs.26,665/- to the



W.P(MD)No.19757 of 2015

petitioner within a period of five weeks after the receipt of the application. If the fourth respondent fails to make the said payment within five weeks, it shall carry interest at the rate of 6% per annum from the date of the petitioner's original entitlement.

8.This writ petition is allowed on these terms. No costs.

31.07.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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G.R.SWAMINATHAN, J.

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W.P(MD)No.19757 of 2015

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