



W.P(MD)No.23170 of 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.08.2023

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.23170 of 2015

and

M.P.(MD)No.1 of 2015

Jeyananthi

... Petitioner

Vs.

- 1.The State of Tamil Nadu,
Rep. by Secretary,
Finance (Salary) Department,
Fort St.George,
Chennai-9.
- 2.The Principal Secretary to Government,
Health and Family Welfare Department,
Secretariat,
Fort St.George,
Chennai.
- 3.The Divisional Manager,
United India Insurance Company Ltd.,
Divisional Office 10700,
Silingi Buildings,
134, Greams Road,
Chennai-6.
- 4.The District Collector,
Tirunelveli District,
Tirunelveli.



W.P(MD)No.23170 of 2015

5. The Chief Medical Officer,
PRS Hospital,
Killippallam,
Karamana Post,
Tiruvananthapuram,
Kerala State.

... Respondents

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 of the 3rd respondent dated 07.02.2013 quash the same and further directing the respondents 1 to 4 to reimburse the Medical expense of Rs.53,965/- to the petitioner for taking treatment at the 5th respondent hospital from 02.08.2012 to 07.08.2012 for the disease of Cancer.

For Petitioner : no appearance

For Respondents : Mr.D.Gandhirajan
Special Government Pleader for R1, R2 & R4

: Mr.A.Shajahan for R3

: no appearance for R5

ORDER

None appears for the petitioner. Heard the learned Special Government Pleader appearing for the official respondents and the learned counsel appearing for the insurance company.

2. The writ petitioner is a school teacher. She is a member of the New Health Insurance Scheme. The petitioner was diagnosed as suffering from



W.P(MD)No.23170 of 2015

cancer. She took treatment as inpatient in the 5th respondent hospital in the State of Kerala. The petitioner spent about Rs.53,965/-. She sought reimbursement. Contending that the scheme contemplates only a cashless treatment, the petitioner's request was rejected. Challenging the same, the writ petition came to be filed.

3. The issue on hand is no longer *res integra*. The Hon'ble Division Bench in the decision reported in **2010 (2) L.W 90(Star Health and Allied Insurance Co. Ltd., Vs. A.Chokkar and others)** had held as follows:-

“ 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. .

...

27. Now coming to the individual cases, in all the case, whatever may be the category, the petitioners/claimants have paid the amount. The



W.P(MD)No.23170 of 2015

WEB COPY

scheme is a 'cashless' one and, therefore, it is only the Government which have to make the payment under the Rules. The Redressal Committee is empowered to decide the following circumstances, namely, any difficulty in availing treatment, nonavailability of facilities, bogus availment of treatment for ineligible individuals, etc. It is really not clear what other complaints would be covered under the umbrella "etc.". But, however, since the Paragraph relating to 'Redressal of Grievances' starts with the sentence "The Hospitals shall extend treatment to the beneficiaries under the Scheme on a cashless basis", it is evident that the Committee cannot direct payment of cash.

28 . Therefore, if the claimants have made payments whether for a procedure not covered or whether at a non-network hospital or they have paid when they have been treated for a covered procedure in a network hospital, their only remedy is to approach the Government under the Rules. If, however, before they take treatment they are informed that a particular procedure is not covered, then at that stage, they may approach the Redressal Committee where the medical expert can decide whether that procedure is covered or not. The Redressal Committee may also go into the complaints regarding non-availability of facility at a network hospital, which may be available in favour of the claimant when he applies under the Rules. Otherwise, we do not think that the Redressal Committee can do much in any one of these cases, since all the petitioners/claimants before us would have made payments. But, if there is a petitioner who has not settled the claim and has come before us, then, in the event, that it is for a procedure that is not covered, he may approach the Redressal Committee. In view of the fact that there are the above lacunae in the Scheme, the Government shall not deny any claim validly made under the Rules only because the claimant is a member of the Scheme.”



W.P(MD)No.23170 of 2015

WEB COPY

4. The petitioner is entitled to have the case considered as per Tamil Nadu Medical Attendance Rules. The petitioner is permitted to submit a fresh application before the concerned authority. As and when the same is received, it shall be considered under the Tamil Nadu Medical Attendance Rules and the necessary payment shall be paid to the petitioner herein. If such an application is submitted within a period of eight weeks from the date of receipt of a copy of this order, limitation will not be put against the petitioner. The order impugned in the writ petition is sustained. The petitioner is given liberty to approach the Government as mentioned above.

5. The Writ Petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

16.08.2023

Index : Yes / No
Internet : Yes/ No
rmi

To

1.The Secretary,
Finance (Salary) Department,
Fort St.George,
Chennai-9.



W.P(MD)No.23170 of 2015

G.R.SWAMINATHAN, J.

rmi

2.The Principal Secretary to Government,
Health and Family Welfare Department,
Secretariat,
Fort St.George,
Chennai.

3.The District Collector,
Tirunelveli District,
Tirunelveli.

W.P(MD)No.23170 of 2015

16.08.2023