



WP (MD) No.2635 of 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 28.03.2023

CORAM:

THE HONOURABLE MR.JUSTICE **B.PUGALENDHI**

WP (MD) No.2635 of 2015

T.Mallika

... Petitioner

Vs

- 1.The Secretary to the
Tamil Nadu Government Social Welfare Department,
Secretariat, Fort St. George,
Chennai - 600 009.
- 2.The Joint Secretary,
Social Welfare and Noon Meal Scheme Department,
Secretariat, Fort St.George,
Chennai- 600 009.
- 3.The Director,
Social Defence Department,
300 Purasaivakkam High Road,
Kellis, Chennai - 600 010.
- 4.The Director,
Department of Treasury,
Panagal Maligai,
Saidapet, Chennai - 600 015.
- 5.The Commissioner,
Treasuries and Accounts,
Panagal Maligai,
Saidapet, Chennai - 600 015.

... Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India for a writ of mandamus directing the 1st and 2nd respondents to consider the petitioner's representation dated 03.04.2015 and order to the 5th respondent to give medical reimbursement amount as per the order of the 3rd respondent dated 04.08.2008 with interest.

For Petitioner : MrS.Balaji
For Respondents : Mr.S.Shaji Bino,
Special Government Pleader

ORDER

This writ petition is filed for a writ of mandamus directing the respondents to reimburse the medical expenses incurred by the petitioner by considering her representation dated 03.01.2015.

2.The learned Counsel for the petitioner submits that the petitioner is a retired Government servant and she has been a subscriber to the Tamil Nadu Government Health Insurance Scheme. While so in the year 2007 the petitioner's daughter underwent a specialised excimer laser treatment at A.G.Eye Hospital and Institute of Ophthalmic Research and Training, Trichy and she incurred a sum of



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Rs.20,830/- towards the same. Therefore, the petitioner made representations to the respondents for medical reimbursement. However, it was not considered by the respondents. Therefore, the petitioner has filed this writ petition.

3.The learned Special Government Pleader appearing for the respondents by referring the counter affidavit submits that the treatment taken by the petitioner's daughter is not approved as per the Government order in GO.Ms.No.377, Finance (Salaries) Department dated 13.10.2005. However, the petitioner's claim was forwarded to the Commissioner of Treasuries and Accounts, Chennai for approval vide proceedings No.4318/C1/2008, dated 04.08.2008. Since the Commissioner of Treasuries and Accounts, Chennai is the authority to sanction the claim of the medical assistance of the Government servant, the Commissioner has examined the proposal of the petitioner submitted by the 3rd respondent and returned the proposal vide letter CTAN Dis. 841,190/H4/2008, dated 22.01.2009 stating that the surgery (Excimer Laser) underwent by the petitioner's daughter in



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AG.Eye Hospital at Trichy is not covered under GO.Ms.No.377, Finance (Salaries) Department dated 13.10.2005 and instructed the Director of Social Defence, Chennai -10 to approach the Government for relaxation order in respect of the petitioner's claim.

4.The learned Special Government Pleader further submits that the Government in letter No.10322/SW8/2011-6 Social Welfare and Nutritious Meal Programme Department, dated 29.10.2014 have asked some clarification from the petitioner regarding the medical assistance. After receiving the clarification from the petitioner and considering the Government orders in GO.Ms.No.377 dated 13.10.2005 and GO.No.1, date 02.01.2007, of Finance (Salaries) Department, the Government in the letter dated 29.10.2014 have replied to the petitioner that the surgery underwent by the petitioner's daughter was not approved by the Government and the petitioner claim for medical reimbursement is not admissible under rules. The Government in the letter No.10322/SW8(2)/2011-212 dated 12.11.2012 had addressed the Director of Medical and Rural Health



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Services, Chennai to examine the proposal of the petitioner forwarded to the Government by the 3rd respondent under the Tamil Nadu Medical Attendance Rules and offer their specific remarks. Meanwhile, the petitioner had filed a writ petition in WP(MD)No.13610 of 2014 before this Court, wherein this Court directed the respondents to consider the petitioner's representation and pass orders on merits and in accordance with law within a period of eight weeks.

5.This Court considered the rival submissions and perused the materials placed on record.

6.The petitioner, a retired Government servant was a subscriber to the Tamil Nadu Government Servant Health Insurance Scheme. The petitioner's daughter underwent a specialised excimer laser treatment at A.G.Eye Hospital and Institute of Ophthalmic Research and Training, Trichy. The petitioner made a representation to the respondents seeking reimbursement of the medical expenses towards her daughter's treatment. It was not considered by the respondents. Therefore, the petitioner had earlier filed a writ petition before this Court in WP(MD)No.13610 of 2014,



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wherein this Court by order dated 19.08.2014, directed the respondents to consider the petitioner's representation and pass orders. However, thereafter there was no response from the respondents. Therefore, the petitioner has approached this Court.

7.The respondents have taken a specific stand that the treatment undergone by the petitioner's daughter is not an approved one and not covered under the scheme. However, Government vide letter No.10322/SW8/2011-6 Social Welfare and Nutritious Meal Programme Department, dated 29.10.2014 addressed the Director of Medical and Rural Health Services, Chennai to examine the proposal under the Tamil Nadu Medical Attendance Rules.

8.The Insurance Scheme is purely a contract entered into between the Government and the Insurance Company. It is also stated that the treatment for which medical reimbursement is claimed, is not an approved one. However, since the Government have addressed the Director of Medical and Rural Health Services, Chennai to examine the proposal



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under the Tamil Nadu Medical Attendance Rules, this Court directs the 4th and 5th respondents to consider the petitioner's claim under the Tamil Nadu Medical Attendance Rules and reimburse her the amount, which she is entitled for as on today.

9.With the above direction this writ petition is disposed of. No costs.

28.03.2023

Internet : Yes / No

dsk



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B. PUGALENDHI, J.

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