



W.P(MD)No.2410 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 31.08.2023

CORAM :

THE HONOURABLE MR.JUSTICE BATTU DEVANAND

W.P(MD)No.2410 of 2017

P.S.Govindarajan

... Petitioner

Vs.

1.The Government of Tamil Nadu,
Represented by its Secretary,
Fort St.George,
Chennai - 600 009.

2.The District Collector,
District Collectorate,
Thanjavur.

3.The United India Insurance Company Limited,
Divisional Office VI,
5th Floor, P.L.A.Rathna Towers,
No.212, Annasalai,
Chennai - 600 006.

4.The Treasury Officer,
District Treasury Office,
Thanjavur.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records of the fourth respondent relating Na.Ka. 16812/2014/I (1) dated 21.09.2016 to quash the same and to issue consequential direction to the respondents to reimburse the medical expenses of Rs.2,08,138/- (Rupees Two Lakhs Eight Thousand Hundred



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and Thirty Eight only) incurred by the petitioner for taking medical treatment at Prime Indian Hospital, Chennai.

For Petitioner : Mr.K.Muthuganesa Pandian
for Mr.S.Balasubramanian
For R1, R2 & R4 : Mr.P.Subbaraj
Special Government Pleader

ORDER

Heard the learned counsel for the petitioner and the learned Special Government Pleader appearing for the respondents 1, 2 and 4 and perused the record.

2. The case of the petitioner is that he served as Tamil Teacher in Ariyalur District and retired in the year 1995 on attaining the age of superannuation. At the age of 80, on 11.06.2016, he slipped in the bathroom and right side of the hip bone was broken and was admitted in the local Kumbakonam Private Hospital. Since the said hospital does not have any facility to undergo surgery, on the advice of the Doctors, he was admitted as in-patient in the Prime Indian Hospital Private Limited, Chennai on 19.02.2016 and underwent surgery and was discharged from the hospital on 26.02.2016. He incurred expenditure for the treatment in the Prime Indian Hospital Private Limited, Chennai, to the tune Rs.1,61,808/-. The treatment charges for taking treatment at local private



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hospital, Kumbakonam and towards ambulance expenditure, he spent Rs.46,330/-, in total, he incurred expenditure for the whole treatment for a sum of Rs.2,08,138/-. After getting discharge from the hospital, he approached the 4th respondent and submitted a letter, dated 18.08.2016 for reimbursement of the medical expenses incurred by him. The representation, dated 18.08.2016 was considered by the District Level Empowered Committee in the meeting held on 30.08.2016, which was headed by the second respondent. As per the decision taken in the said Committee meeting, the 4th respondent by proceeding in Na.Ka. 16812/2014/I(1) dated 21.09.2016 had rejected the claim of the petitioner for reimbursement of medical expenses, on the ground that he had taken treatment in non-listed hospital of the 3rd respondent. Aggrieved by the same, the present Writ Petition is filed.

3. The learned counsel for the petitioner contends that the Government of Tamil Nadu issued a Government Order in G.O.Ms.No. 171 Finance (Pension) Department, dated 26.06.2014 introducing a New Health Scheme, 2014. The main motto of the said scheme is to provide health care assistance to the employees of Government Departments, Organizations covered under the Scheme and their eligible family



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members through United India Insurance Company Limited, Chennai.

The diseases and respective types of treatments that are included under the said Scheme have been listed and the hospitals that are linked and net-worked by the said scheme have also been listed out separately. The treatment taken under non-listed hospitals will not be considered for the reimbursement of medical expenses.

4. The learned counsel for the petitioner further submits that it is a settled law that employees are entitled for medical re-imburement irrespective of whether specific treatment is mentioned in the Government order or whether in the hospital mentioned in the Government order or not. The same has not been scrupulously followed by the Authorities concerned.

5. The learned counsel also contends that the petitioner was not provided an opportunity to explain as to under what circumstances he has been compelled to take treatment in the particular hospital. It is also contended that the first respondent failed to consider the proper perspective of the claim of the petitioner, which is untenable and sought to allow the Writ Petition.



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6. On behalf of the respondents Nos.1, 2 and 4, a counter affidavit has been filed by the fourth respondent. Besides making several averments in the said counter, it is stated that as per G.O.Ms.No.202 Finance (Salaries) Department dated 30.06.2016, the provision of appeal is provided against the rejection order of the District Level Empowered Committee before the State Level Committee and High Level Empowered Committee.

7. The learned Special Government Pleader appearing for the respondents No.1,2 and 4 submits that the petitioner, without exhausting the remedy of appeal, has straight away approached this Court by way of filing this Writ Petition and as such, it is liable to be dismissed on that ground.

8. Having heard the submissions of the respective counsels and upon perusal of materials available on record, admitted facts are not disputed by both sides. The petitioner is aged about 80 years and is a retired employee. He is beneficiary under the New Health Insurance Scheme introduced by the State Government in the year 2014.



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9. Admittedly, the petitioner's right side hip bone was broken and he was admitted in the local Kumbakonam private hospital and there is no facility to undergo surgery. As per the Doctor's advice, he was admitted in Prime Indian Hospital Private Limited, Chennai and for the treatment, he spent an amount of Rs.2,08,138/-. It is not the case of the respondents 1, 2 and 4 that the petitioner did not take treatment or he did not spend any amount or he made a bogus claim. The case of the respondents 1, 2 and 4 is that the treatment taken by the petitioner is not covered under the said scheme and he took treatment in non-listed hospital.

10. Considering the identical issue, this Court issued specific direction to the State Government and instrumentalities in the case of ***N.Raja vs. Government of Tamil Nadu reported in 2016(3) CTC 394.*** However, considering the fact that an appeal is provided before the State Level Empowered Committee as per G.O.Ms.No.202, Finance (Salaries) Department, dated 30.06.2016, in my considered opinion, it is appropriate to direct the petitioner to avail the remedy of appeal and in the event of filing an appeal, to direct the State Level Empowered Committee to dispose of the appeal within a stipulated time.



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13. Accordingly, this Writ Petition is disposed of with the following directions:

i) the petitioner shall avail an alternative remedy of appeal provided in G.O.Ms.No.202, Finance (Salaries) Department, dated 30.06.2016 within a period of two weeks from today before the State Level Empowered Committee;

ii) On filing an appeal, the State Level Empowered Committee shall examine the appeal and pass appropriate orders taking into consideration the direction issued by this Court in the case of ***N.Raja Vs. Government of Tamil Nadu reported in 2016(3) CTC 394*** within a period of six weeks thereafter.

14. No costs.

15. The first and second respondents shall place a copy of this order before the State Level Empowered Committee.

31.08.2023

NCC :Yes/No
Index :Yes/No
Internet : Yes/ No
CM/Indu



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To

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The Government of Tamil Nadu,
Fort St.George,
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- 2.The District Collector,
District Collectorate,
Thanjavur.
- 3.The Treasury Officer,
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BATTU DEVANAND, J

CM/Indu

Order made in
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Dated :31.08.2023