

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(232)

CWP-798-2020

Date of Decision : August 07, 2023

Shri Ram Chopra

.. Petitioner

Versus

State of Haryana and others

.. Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Nipun Vashisht, Advocate, for the petitioner.

Mr. Tapan Kumar Yadav, Deputy Advocate General, Haryana.

Mr. Munish Kapila, Advocate, for respondent No.4.

HARSIMRAN SINGH SETHI J. (ORAL)

1. Reply on behalf of respondent No.4 has been filed in the Court today and the same is taken on record.

2. Present petition has been filed with a prayer that the action of the respondents in not reimbursing the total medical bill of the petitioner, may kindly be quashed and the letter dated 02.01.2019 (Annexure P-5) by which, only part of the medical bill has been sanctioned, be declared as illegal and arbitrary with a further direction to the respondents to reimburse the total cost of the implant which the petitioner had incurred while undergoing the treatment for the Ischemic Cardiomyopathy.

3. The facts as stated in the petition are that the petitioner retired from service as a Deputy District Education Officer, Ambala on 31.05.2007.

On 29.10.2012, the petitioner, who was suffering from chronic heart disease was advised immediate treatment for Ischemic Cardiomyopathy, which was available in Fortis Hospital, Mohali.

4. For getting the treatment done, the petitioner incurred a total cost of Rs.5,95,500/- which bill was submitted by him for the reimbursement to the respondent-State. The respondent-State accepted the medical bill but the petitioner was not given full reimbursement on the ground that the sanction has only been accorded for reimbursement of an amount of Rs.3,53,300/-.

5. The prayer of the petitioner in the present petition is that once the petitioner has incurred a particular sum on his treatment, which treatment is not being disputed by the respondents, the petitioner is entitled for full reimbursement of the medical bills.

6. Upon notice of motion, the respondents have filed the reply. In the reply, the respondents have mentioned that keeping in view the instructions issued on 21.05.2015, certain guidelines have been issued for the implant cost and packages which are being offered by the hospital qua their reimbursement and as per the said instructions, with regard to the implant which the petitioner has been given under the treatment, cost Rs.3,53,300/-, has already been reimbursed to him and therefore, the claim of the petitioner beyond the said amount is not covered under the instructions in question.

7. I have heard learned counsel for the parties and have gone through the record with their able assistance.

8. It may be noticed that it is not the case that the treatment which the petitioner undertook, was not emergent or the treatment for which the reimbursement is sought, has not been undertaken by the petitioner. The

only dispute being raised for full reimbursement as being claimed by the petitioner is that as per the instructions dated 21.05.2015, the amount of implant which has already been fixed in the instructions, can be extended and not beyond that.

9. The said question already came up for consideration before this Court in ***CWP No.22833 of 2015 titled as Ayoudhia Prasad Duggal vs. CAT, Chandigarh and others, decided on 20.02.2017*** where the Division Bench of this Court has held that merely because the Government does not revise the package deal amount under Medical Attendance Rules from time to time, a person who has undergone surgery cannot be denied actual medical costs undertaken of the implant or otherwise and the medical reimbursement has to be of the actual medical expenses incurred. The relevant paragraph 10 of the said judgment is as under:-

“10. In this view of the matter and considering that it was the categoric contention of the Petitioner that the MRI compatible Pacemaker as well as Stents were installed strictly as per the recommendation of the Treating Surgeon, taking into account the situation prevailing at the time of Operation, we have no hesitation in coming to the conclusion that the purported letters of Consent/Undertakings signed by the Petitioner's Attendants on 1.8.2013 and 20.9.2013 cannot become a hindrance to him for the purpose of seeking disbursement, since the same were undoubtedly signed under grave mental pressure and fear at the relevant time of Operation, considering the patient's actual situation, and also as a result of 7 of 9 aggressive or forceful representation from the side of the Hospital Authorities or the Treating Surgeon(s). We are therefore, inclined to concur with the decision of the Delhi High Court in a substantially identical matter being 'Daljit Singh Versus Govt. of N.C.T. Of Delhi & Ors.' WP (C) No.16651/2006 in which, relying upon an earlier decision in the case of 'State of Punjab & Ors. vs. Mohan Lal Jindal'

2001(9) SCC 217 wherein the stand of the Government in refusing to reimburse the in-patient charges for the treatment in the said Hospital was rejected and the Government was held to be under a constitutional obligation to reimburse the expenses since the right to health is an integral to the right of life, it was observed-

14. The undisputed position that emerges is that a patient is entitled to reimbursement of the full amount of medical expenses and not only at the rates specified in the circular of 1996 and in case respondent No. 2 has charged a higher rate, than could have been charged, it is for respondent No. 1 to settle the matter with respondent No. 2. The petitioner cannot be deprived of the reimbursement.....

4. In view of the above it is no longer res integra that merely because the Government does not revise the package deal amount under the Medical Attendance Rules from time to time a person cannot be denied actual medical costs, and there has to be reimbursement of the actual medical expenses incurred."

10. Relying upon the said judgment in ***Ayoudhia Prasad Duggal's case (supra)***, this Court while passing order in ***CWP No.24498 of 2016 titled as Rajinder Singh vs. State of Haryana and others, decided on 27.07.2023***, granted the same benefit where, the full amount of medical expenses were not being reimbursed on the ground that the implant costs as fixed by the Government is to be given and not actual costs incurred by the patient, was held to be bad.

11. The question of law settled by this Court in ***Ayoudhia Prasad Duggal's case (supra)*** and ***Rajinder Singh's case (supra)***, is applicable in the facts and circumstances of the present case as the petitioner has been given an implant which has actually costed him Rs.5,42,200/-, which amount needs to be reimbursed and the full reimbursement cannot be denied only on the ground that the ceiling has been fixed for the reimbursement of

the said implant @ Rs. 3 lacs.

12. Consequently, the present writ petition is allowed. The sanction of the part medical expenses incurred is set aside and the petitioner will be entitled for the full reimbursement of the implant done @ Rs.5,42,200/- rather than on the ceiling of Rs.3 lacs fixed by the respondents. The respondents are directed to reimburse the full amount for which the petitioner has submitted the bills i.e. Rs.5,95,500/- with a period of two months from the receipt of certified copy of this order as no dispute has been raised qua the spending of the said amount on the medical treatment by the petitioner. Amount already paid to the petitioner should be adjusted.

August 07, 2023

harsha

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : Yes