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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-13034-2021
Date of Decision:07.12.2023

CHETAN KUMAR GARG .... Petitioner

Versus

STATE BANK OF INDIA AND ORS ..... Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr. Naman Jain, Advocate
for the petitioner.

Ms. Monita Mehta, Advocate
for the respondents.

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JAGMOHAN BANSAL, J. (Oral)

1. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking direction to respondents to reimburse medical expenses of the petitioner.

2. The brief facts of the present case are that the petitioner was working with respondent-Bank till 31.08.2020 as Chief Manager. The petitioner had served respondent-Bank for 38 years. The wife of the petitioner while petitioner was in service suffered from breast cancer. She was time to time got admitted in Medanta Hospital, Gurugram. She had to undergo surgery and post surgery, the doctors advised to conduct Oncotype dx test to determine the risk of recurrence and need for Chemotherapy. She was subjected to aforesaid test and on the basis of outcome of said test, she was not subjected to Chemotherapy. The petitioner claimed reimbursement of cost of aforesaid test, however, respondent has rejected claim of the petitioner.

3. Learned counsel for the petitioner submits that as per instructions dated 07.01.2020 of respondent-Bank, the amount of medical, surgical and hospitalization expenses actually and necessarily incurred by an officer in respect of any injury, disease or illness shall be reimbursed in full by the Bank. In the said instructions, it has been further provided that medical charges which are not enumerated in the Annexure may be paid as per recommendations of Bank's Permanent Part Time Medical Officer/Bank's Medical Officer posted at Administrative Office/ Local Head Office. The wife of the petitioner was subjected to Oncotype dx test which saved her from Chemotherapy. The respondent-Bank has mechanically rejected claim of the petitioner for reimbursement of medical expenses.

4. Per contra, learned counsel for the respondents submits that petitioner, well in advance, was informed that costs of aforesaid test, as per policy of the Bank, cannot be reimbursed. The respondent-Bank has collected information with respect to diagnostic evaluation of breast cancer. With respect to aforesaid test, in the report, it has been pointed out that clinical utility and added value in a routine practice is yet unknown and there is very little data in the Indian patients. The respondent-Bank is dependent upon opinion of the panel of the doctors and they have opined that test is not mandatory, thus, respondent-Bank is not liable to reimburse costs of aforesaid test.

5. I have heard the arguments of both sides and with the able assistance of learned counsels perused the record.

6. From the perusal of record and argument of learned counsel for the respondents, it comes out that ground of rejection of

reimbursement of medical expenses of aforesaid test is that clinical utility and added value of the said test is not known in India and there is little data in the Indian patients. There is rapid advancement in the medical science. The fact that a particular test is not a routine practice in India does not mean that the said test or treatment is irrelevant. The test in question was costing Rs.3 lakhs and in view of economic conditions of citizens of the country, it is well-known that such type of test cannot be afforded by every patient. This may be the reason of availability of little data in India. This cannot be the ground to reject claim of the petitioner especially when as per policy of the respondent-Bank, all medical expenses with respect to disease or illness are to be reimbursed in full by the Bank. There is another aspect of the matter which needs to be noticed. The wife of the petitioner on account of aforesaid test was not subjected to Chemotherapy. It is a known fact that post surgery in cancer patients, Chemotherapy is conducted. There is cost of Chemotherapy as well as medicines. The cost of Chemotherapy and subsequent treatment is saved because of aforesaid test. In this way, the Bank had not to reimburse cost of Chemotherapy and other expenses.

7. In the wake of above discussion and findings, this Court is of the considered opinion that present petition deserves to be allowed and accordingly allowed.

(JAGMOHAN BANSAL)
JUDGE

07.12.2023
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Whether speaking/reasoned	Yes/No
Whether Reportable	*Yes/No*