

**IN THE PUNJAB AND HARYANA HIGH COURT AT
CHANDIGARH**

2023:PHHC:166879

1430

**CWP-11799-2010 (O&M)
Date of Decision: 02.09.2023**

KRISHAN KUMAR

... Petitioner

VERSUS

STATE OF HARYANA AND OTHERS

... Respondents

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Neeraj Goel, Advocate
for the petitioner.

Mr. Dimple Jain, AAG, Haryana.

SANDEEP MOUDGIL, J.

The present petition has been filed against the impugned action of respondents in restricting the payment of 75% to the excess expenditure in comparison to AIIMS/PGI rates only to recognized hospital.

Precise, the issue involved in the present case is that the respondents have withheld the payment qua reimbursement of medical bills of the petitioner's wife to the tune of Rs.1,22,655/- on the ground that the treatment has been obtained from a private hospital.

Learned counsel for the petitioner has argued that the petitioner is working as Clerk in Zile Parishad, Bhiwani. His wife Veena Sharma, who is dependent upon him, became seriously ill and for the purpose of her treatment, she was taken to AIIMS, Delhi, Max Super Specialty Hospital, Delhi and certain local hospitals in Bhiwani. The respondents have already sanctioned and reimbursed the amount incurred during treatment at AIIMS, Delhi and Max Super Specialty Hospital, Delhi, however, they have withheld the

abovementioned amount of Rs.1,22,655/- out of the total bill of Max Hospital. It is further submitted that due to shortage of beds in AIIMS, Delhi coupled with the serious medical condition of the wife of the petitioner, the petitioner was forced to take his wife of Max Super Specialty Hospital, Delhi. It is further submitted that in case of an emergent situation, the treatment can be got from any privates hospital also, and the respondents have no right to withheld the payment of medical reimbursement.

On the other hand, learned State Counsel opposed the arguments raised by learned counsel for the petitioner while averring that there is policy of the State Government regarding medical bills, which has been circulated by the Health Department of Haryana vide letter No.2/1/88/1PP/3rd dated 06.05.2005. It is further argued that the Civil Surgeon, Bhiwani has given only his opinion that the treatment obtained by the wife of the petitioner in private hospital has been taken due to an emergency case, however, it is the discretion of the department to take a decision qua reimbursement of medical expenses incurred on account of treatment taken from private hospital. Accordingly, the reimbursement has been made to the petitioner as per the policy of the Government.

I have heard the learned counsel for the respective parties and have also gone through the documents appended alongwith the present petition with their able assistance.

The only contention of the counsel for the petitioner is that if a patient is taken to private hospital in case of emergency, then the respondents are required to reimburse the entire medical expenses incurred on the treatment. In order to support his contentions, learned counsel for the petitioner has relied upon the judgment of a Division Bench of this Court passed in the matter of

Baldev Kishan Khanna Versus State of Haryana, reported as *(2006) 3 SLR 791 (DB)* in which it has been held that as per instructions dated 31.11.1993, the reimbursement of medical bills cannot be denied merely because treatment was obtained from a private hospital, which is not recognized.

In order to rebut the contention of the counsel for the petitioner, the learned State Counsel has merely relied upon the above mentioned policy of the State. However, the learned State Counsel could not controvert the fact that in the reply filed by the State, the Civil Surgeon, Bhiwani has himself given his opinion that the treatment obtained by the wife of the petitioner in private hospital has been taken due to an emergency case. If it was so, then the respondents must not have withheld the legitimate dues of the petitioner which he has incurred on the treatment of his wife. The case of the petitioner is further fortified with the ratio of law laid down by the Division Bench of this Court in the matter of *Baldev Kishan Khanna (supra)*.

Hence, keeping in the totality of the facts and circumstances of this Court, the petition in hand deserves to be allowed.

Ordered accordingly.

The respondent-Department is consequently directed to release the amount of Rs.1,22,655/- alongwith interest @ 9% per annum from the date of filing of the petition till actual realization. Needful be done with a period of four months from the date of receipt of certified copy of this Court.

02.09.2023
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(SANDEEP MOUDGIL)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No