

CWP No.24498 of 2016 (O&M)

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MANOJ KUMAR
2023.08.01 10:05

2023:PHHC:095654

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

CWP No.24498 of 2016 (O&M)

Date of decision : 27.07.2023

Rajinder Singh

....Petitioner

Versus

State of Haryana and Ors.

....Respondents

CORAM : HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present :- Mr. Shyam Kumar Sharma, Advocate for the petitioner.

Mr. Saurabh Mohunta, DAG, Haryana.

HARSIMRAN SINGH SETHI, J. (ORAL)

CM No.2625-CWP-2020

Application is for placing on record Annexure P.10.

Application is allowed. Annexure P.10 is taken on record.

CWP No.24498 of 2016

Present petition has been filed raising grievance that total reimbursement of the medical bill for the treatment with regard to Surgery qua total Hip replacement incurred by the petitioner as indoor patient from 09.05.2015 to 27.05.2015 undertaken at Government Medical College Hospital, Sector 32, Chandigarh (hereinafter to be referred as "Medical College") has not been made to the petitioner.

Learned counsel for the petitioner argues that it is a matter of fact that the petitioner had undertaken Hip Replacement Surgery, which was advised to him by the Doctor to be necessary after taking into account medical condition of the petitioner and the petitioner remained admitted at the Medical College and underwent total Hip Replacement Surgery and incurred a total medical bill of Rs.4,17,004/-, which bill was duly verified by the Medical Superintendent of the

Medical College. Learned counsel for the petitioner further submits that the petitioner claimed for reimbursement of said medical expenses incurred by him but out of total medical bill of Rs.4,17,004/-, sanction has only been accorded to the reimbursement of medical charges amounting to Rs.1,00,304/- vide Annexure P/5. Thus, the action of the respondent for not reimbursing the total medical bill amount has been challenged in the present petition.

Upon notice, respondents have filed reply, wherein it has been mentioned that for certain surgeries, the maximum ceiling rate has been fixed by the Government qua the implants and a sum of Rs.45,000/- plus Rs.5000/- in all totalling Rs.50,000/- has been prescribed in respect of Hip Implant, as per Government policy dated 06.08.2013, which has only been reimbursed to the petitioner.

As per the reply, though it is conceded to the effect that as per the medical bills submitted, cost of implant has been mentioned as Rs.2,75,000/- plus Rs.82,400/- being spent on medicines and other equipments, but the same cannot be reimbursed, in view of maximum ceiling fixed, which is Rs.45,000/- plus Rs.5000/- qua the implants, hence claim of the petitioner is liable to be rejected.

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

It may be noticed that the medical treatment, which the petitioner had undertaken is from a Government Hospital. It is also not a disputed fact that as per the medical bills, which have been verified by the Medical Superintendent of the Medical College, total expenditure incurred on the treatment of petitioner is Rs.4,17,004/-. That being so, the respondent-Department cannot restrict the reimbursement to Rs.1,10,044/-. Once, it is a conceded position that actually the implant which was used was as per the recommendations of the Doctors concerned, who conducted the surgery and the said implant cost Rs.2,75,000/-,

the said amount incurred by the petitioner cannot be deducted to mean that only Rs.45,000/- will be reimbursed for the said implant despite the fact that implant actually costed Rs.2,75,000/- to the petitioner.

It is not a case that the petitioner had undertaken the surgery/treatment in a private hospital and then claimed the benefit of total reimbursement. In the present case, the expenditure incurred at a Government Hospital is being claimed for medical reimbursement which also is not being extended to the petitioner. It is settled principles of law in **CWP No.22833 of 2015 titled as Ayoudhia Prasad Duggal vs. CAT, Chandigarh and others, decided on 20.02.2017** wherein Division Bench of this Court has held that merely because Government does not revise package deal amount under Medical Attendance Rules from time to time, a person who has undergone surgery cannot be denied actual medical costs and there has to be reimbursement of actual medical expenses incurred. Relevant paragraph 10 of the said judgment is reproduced 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."

As learned State counsel has not been able to rebut that claim of the petitioner is covered by the judgment in **Ayoudhia Prasad Duggal's case (supra)**.

In the present case, actual medical costs incurred by the petitioner at a Government Hospital has not been reimbursed to him which act on the part of the respondents cannot be accepted, especially in view of the judgment of Division Bench of this Court in **Ayoudhia Prasad Duggal's case (supra)**.

In view of foregoing discussion, present petition is allowed and the respondents are directed to reimburse the total medical bills submitted by the petitioner as verified by the Medical Superintendent of the Medical College and the outstanding amount yet to be paid be released in his favour within a period of two months of the receipt of copy of this order.

No further argument was raised with regard to interest.

Allowed in above stated terms.

July 27, 2023
manoj

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned: Yes
Whether Reportable : No