

205 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-6027-2016
DECIDED ON: 12.09.2023

BHAGAT RAM

...PETITIONER

VERSUS

STATE OF HRAYANA AND OTHERS

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. B.S. Mittal, Advocate
for the petitioner.

Mr. Sandeep Singh Mann, Addl. AG, Haryana.

Mr. Amit Sheoran, Advocate for respondents No.2 & 3.

SANDEEP MOUDGIL, J

1. The jurisdiction of this court has been invoked under Article 226/227 of the Constitution of India for issuance of writ in the nature of Certiorari for quashing the letter dated 15.06.2015(Annexure P-5) passed by respondent no.3 and further issuance of writ of Mandamus directing respondents to reimburse the deducted amount of medical bills of the petitioner as in chronic disease, deduction could not be made in view of the instructions dated 28.05.2023(Annexure P-7).

2. The factual matrix of the case unfolds that the petitioner retired as Mandi Supervisor from office of Market Committee, Sirsa on 31.03.2004 and was suffering from heart ailment falling under the category of Chronic disease since 05.11.2012 wherein an angioplasty was done and a certificate

from for chronic disease was issued by the medical board dated 13.02.2012.(Annexure P-2). Further, the wife of the petitioner was suffering from cancer(Multiple Myeloma) since 27.01.2009 and later died on 11.04.2013 and the treatment for same was taken from Rajiv Gandhi Cancer Institute and Research Center, Delhi.

3. Counsel for the petitioner contends that the petitioner submitted the medical bills of his wife for reimbursement but an amount of Rs. 78,344/- is still due as the same is being illegally deducted from the medical bills and in similar manner, the petitioner being a heart patient is undergoing follow up treatment from Jaipur Golden Hospital, Delhi, which is on the approved panel list of Haryana Government and further adopted by Mandi board, has made number of representations to the respondents vide letter dated 05.07.2013, 20.11.2013, 27.01.2013, 02.06.2014, 19.08.2014 to reimburse the illegally deducted amount.

4. Counsel for the petitioner further contends that as per Government policy dated 28.05.2003, the expenses incurred on account of indoor and outdoor medical treatment in case of chronic disease is reimbursable without making any deduction whereas, on 15.06.2015(Annexure P-5), the respondent no.3 rejected the claim of the petitioner on the ground that full reimbursement is payable in case of Government Hospitals and in case of empanelled Hospital, PGI rates + 75% of excess amount is admissible.

5. Counsel for the petitioner vehemently argues that on 29.06.2015, the petitioner made a detailed representation to the respondent no.3 by giving reference to the instruction dated 15.06.2015 claiming his

entitlement for full reimbursement of medical bills and recovery of amount of Rs.78,344/- and Rs. 27,418/-, which were illegally deducted.

6. On the other hand, counsel for the respondents at the very outset contends that the present petition deserves to be dismissed on the ground of non joinder of the necessary party i.e Health Department, Panchkula. Further, the Health Department has clarified on the query put forth by the answering respondent vide letter dated 05.02.2013(Annexure R-1/1), stating that the entitled medical claims have been reimbursed to the petitioner and nothing is due on their part.

7. He strenuously argues that the petitioner has been suffering from heart problems followed by an Angioplasty and thereafter has been undergoing follow up treatment from Jaipur Golden Hospital, Delhi and have submitted the certificate from office of Civil Surgeon, Sirsa dated 13.2.2012 and as per medical attendance rules(Annexure R-2) and Government instructions vide letter sr.no.2/26/2013-1 HB-III dated 24.10.2013(Annexure R-3) the payment has been made to the petitioner.

8. To the reply filed by the respondent, the counsel for the petitioner has filed a replication submitting that the Health Department is not a necessary party to be impleaded and further the case of the petitioner is covered by instruction dated 28.05.2003(Annexure P-7) whereby reimbursement as indoor/outdoor is allowed by the government to its employees/pensioners in chronic disease. He further stressed upon the fact that the Government again issued instructions dated 28.07.2004 in which it reiterated that in case of chronic disease, full payment of medical expenses is reimbursable (Annexure P-9).

9. Heard learned counsel for the respective parties.

10. The present petition has come up to this court where the petitioner suffering from heart ailment is being deprived of his medical reimbursement to which he is entitled to vide letter dated 28.05.2003 whereas the respondent vide letter dated 05.02.2013 have out rightly refused to pay back the amount claimed by the petitioner, on the reason that outdoor treatment of chronic disease is not reimbursable in case of the treatment taken in the private hospital.

11. The court opines that the Constitution envisages the establishment of a welfare State and in the welfare state, the primary duty of the Government is to secure the welfare of the people by providing adequate medical facilities. The Government has a constitutional as well as statutory obligation to bear the expenses for treatment of the Government servant and his family. For medical reimbursement, what is relevant is whether the claimant had actually taken treatment and the factum of the treatment. Reliance can be placed upon the judgment of the Apex court in '***Secretary to the Government of Haryana vs Vidya Sagar***' civil appeal no 4384 of 2009 (arising out of SLP (c) no. 25258 of 2004 wherein the respondents were granted reimbursement of the medical bill in its entirety which read as under:-

"We see no reason to differ with the views of the High Court. Although the circular dated 28.05.2003 does not expressly supersede the circular letter dated 30.11.1993, but the latter having been issued subsequent to the former and in relation to a particular category of disease, namely, the chronic diseases shall prevail over the earlier general circular letter. The said circular letter dated 28.05.2003 brings within its umbrage not

only the expenses incurred for the treatment of chronic disease outdoor but also indoor. In that view of the matter, the impugned judgment must be sustained.”

12. In the present matter, it is crystal clear that the petitioner and his wife had undergone treatments under chronic disease therefore by no stretch of imagination, it can be disputed that the petitioner was not entitled to be fully reimbursed for the expenses incurred by him, therefore the respondent cannot escape from their liabilities to reimburse the amount claimed i.e Rs. 78,344/- on account of treatment of the wife of the petitioner and Rs. 27,418/- on account of treatment of the petitioner respectively.

13. Accordingly, the petition stands allowed.

(SANDEEP MOUDGIL)
JUDGE

12.09.2023

Meenu

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>