

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

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**CWP No.28729 of 2017
Date of Decision : 17.11.2023**

*Ram Chander**..... Petitioner**versus**State of Haryana and others**..... Respondents*

CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

Present: Mr. Naveen Daryal, Advocate, for the petitioner

Mr. Ravi Pratap Singh, DAG, Haryana

TRIBHUVAN DAHIYA J.

This petition has been filed, *inter alia*, seeking a writ of *certiorari* quashing the order dated 3.11.2017, Annexure P-5, whereby the petitioner's claim of medical reimbursement for the treatment taken in an emergency has been declined. Further, a writ of *mandamus* has been sought directing the respondents to release full amount of medical reimbursement to the petitioner.

2. It is contended by learned counsel for the petitioner that due to sudden chest pain with anxiety, the petitioner was admitted to Park Hospital, Panipat, with diagnosis of acute coronary syndrome. Resultantly, he had to undergo coronary angiography followed by coronary angioplasty on 15.10.2016. He spent Rs.2,00,499/- on the treatment, and claimed medical reimbursement from the Department, where he was serving as a Driver, The claim was partially approved by the respondents, and reimbursement of only Rs.67,250/- was sanctioned.

Vide the impugned order dated 3.11.2017, the petitioner's claim for reimbursement of full amount, by payment of balance amount of Rs.1,33,294/-, has been rejected on the ground that the hospital from where he took treatment, was not on the approved list of hospitals by the government. Therefore, he is only entitled to reimbursement at the rates equal to the rates of PGI, Chandigarh, which has already been sanctioned and paid.

3. Learned State counsel has submitted that the petitioner's claim has rightly been rejected since as per government Instructions he is only entitled to payment of medical reimbursement at the rates of PGI, Chandigarh, that has already been given to him. Therefore, the claim for reimbursement of the balance amount cannot be entertained.

4. Heard.

5. The facts are not in dispute, and also that the petitioner has taken treatment in emergency from a private hospital which is not on the approved list of hospitals notified by the government for medical treatment. Nevertheless, partial reimbursement of the expenses incurred has been cleared with the following observation in the impugned order:

....the reimbursement of medical charges has been sanctioned under the Punjab Service Medical Attendance Rules, 1940, as applicable to Haryana State on the production of the Certificate of authorised medical attendant, that the medicines prescribed were absolutely essential for treatment and recovery of the patient concerned and that no cheaper substitute were available. The expenditure involved will be debit-able under Head 'N-51-08-2059-80-001-96-51-R-V-Execution-67-Medical reimbursement.

6. It is apparent that the respondents have accepted that the medicines prescribed for treatment and recovery were absolutely

essential, and that no cheaper substitutes were available. Once the necessity to take the emergency treatment and the medicines prescribed has been established and accepted by the respondents, there is no justification in refusing to reimburse the expenses incurred on the same.

7. Under similar circumstances, it has been laid down by the Supreme Court in *Suman Rakheja v. State of Haryana and another* (2004) 13 SCC 562, that an employee would be entitled to get full refund of medical expenses at the approved hospital rates and seventy-five per cent of the expenditure in excess thereto. The relevant paragraphs no.4 and 5 of the judgment read as under:

4. Counsel for the appellant submitted that in similar case (Annexure P-4) i.e. by the order of the High Court of Punjab and Haryana in *Sant Prakash v. State of Haryana* wherein in an emergency case the patient had to be immediately admitted in hospital, the relief has been granted. In the present case also the appellant's husband had to be rushed to the private hospital because he had developed a paralytic stroke on the left side of the body, as there was blood clotting on the right side of the brain and therefore, was admitted in an emergency condition in the hospital. In the present case the discharge certificate also shows that the case was an emergency one. In *Sant Prakash* case the Division Bench held that the petitioner therein would be entitled to 100% medical expenses at the AIIMS rates and 75% of the expenditure in excess thereto.

5. In the result, in this appeal also, the appellant herein would be entitled to get the refund of the amount of 100% medical expenses at the AIIMS rates and 75% of the expenditure in excess thereto.

8. In view thereof, the petitioner is held entitled to reimbursement of seventy-five per cent of the expenses in addition to the expenses already paid to him, out of the total expenses of Rs.2,00,499/-, alongwith interest @ 6% per annum, from the date claim has been made till the date

of actual payment. The respondents are directed to release the amount so calculated within a period of four weeks from receiving a certified copy of this order.

9. The petition stands allowed in the aforesaid terms.

(TRIBHUVAN DAHIYA)
JUDGE

17.11.2023
Ashwani

Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No