

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

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CWP-36340-2019

Decided on : 04.10.2023

Pankaj Kumar

. . . Petitioner

Versus

State of Haryana and others

. . . Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

PRESENT: Mr. Rahul Jaswal, Advocate
for the petitioner.

Mr. Harish Rathee, Sr. DAG, Haryana.

HARSIMRAN SINGH SETHI, J. (ORAL)

1. In the present petition, the grievance of the petitioner is that the amount incurred by the petitioner on the medical treatment of his son to the tune of Rs.8,11,372/- is not being reimbursed by the respondents and that too without any valid justification especially when in the case of similarly situated employee namely Amit Sangwan, whose claim was also not being accepted initially but has been allowed by the respondent later on.

2. As per the facts mentioned in the petition, the petitioner was appointed as a conductor on 09.04.2012 on contractual basis and thereafter, his services were regularized from the date of initial joining vide order dated 08.12.2016, copy of which has been appended as Annexure P-1. On 25.10.2015, the minor son of the petitioner was diagnosed with the dengue fever and his condition deteriorated and he was required to have immediate treatment in a specialized hospital. The son of the petitioner was admitted in Jaipur Golden Hospital, New Delhi on 27.10.2015. Keeping in view the deteriorating condition

of the son of the petitioner, he was referred to Sir Ganga Ram Hospital, New Delhi, where he remained admitted upto 09.11.2015.

3. In the treatment, the petitioner had incurred a sum of Rs.8,11,372.60/-, detail of which has been given in paragraph 7 of the petition. The reimbursement of the said medical claim of the petitioner was rejected by the respondent-Department vide impugned order on the ground that when the treatment was taken by the son of the petitioner in the year 2015, the petitioner was working on contractual basis, though, subsequently, the services of the petitioner were regularized with retrospective effect from 09.04.2012. The said action of the respondents is under challenge in the present petition.

4. Learned counsel for the petitioner submits that once the services of the petitioner were regularized with retrospective effect from 09.04.2012, hence, on the date when the treatment was undertaken by the son of the petitioner, he is deemed to be a regular employee. Hence, the claim for medical reimbursement being denied by the respondent is totally arbitrary and illegal.

5. Learned counsel for the petitioner further submits that in the similar circumstances, the claim of one Amit Sangwan has already been allowed by the respondents themselves vide order dated 23.02.2017 whereas, the petitioner is being discriminated qua the grant of same benefit.

6. Learned State counsel, on the other hand, submits that once, factually on the date when the son of the petitioner undertook medical treatment, the petitioner was working on contract basis, though, his services have been later on regularized with retrospective effect but the department is to see the actual position on the date when the treatment was undertaken. Hence, as the petitioner was working on contractual basis at the relevant time, the claim of the petitioner

has rightly been rejected by the respondents. Learned State counsel concedes that with regard to the claim of Amit Sangwan, and the grant of same benefit vide order dated 23.02.2017.

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

5. In the present petition, the claim of the petitioner is not being disputed qua the medical treatment but the same is only being disputed on the ground that at the time when the medical treatment was undertaken by the son of the petitioner in the year 2015, the petitioner was working on contractual basis. The said stand is totally contrary to the actual fact. Though, actually when the treatment was taken by the son of the petitioner, the petitioner was working on contractual basis but subsequent to the said date, vide order dated 08.12.2016, copy of which has been appended as Annexure P-1, the services of the petitioner were regularized with retrospective effect i.e. 09.04.2012. Once the services of the petitioner have been regularized, with retrospective effect, by deeming fiction on the date when the son of the petitioner had taken the medical treatment, the reimbursement of which is being sought, the petitioner is deemed to be a regular employee for all intents and purposes. Hence, the rejection of the claim by the respondent by treating the petitioner as a contractual employee is contrary to the facts on record and hence, the same cannot be sustained.

6. Even otherwise, a similar claim of one Amit Sangwan has already been allowed by the respondents. Further, in the order which has been passed by the respondent qua the claim of Amit Sangwan for the medical reimbursement, it has been duly mentioned that Amit Sangwan was also working on contractual basis but later on, his services were also regularized with retrospective effect and

the department upon reconsideration found Amit Sangwan entitled for the medical reimbursement which was allowed in his favour by order dated 23.02.2017. That being so, the claim of the petitioner is identical to that of Amit Sangwan, Hence, the same needs to be allowed as this benefit has already been allowed by the respondent-Department to a similar situated employee.

7. Keeping in view the above, the claim of the petitioner is allowed. The petitioner is held entitled for the reimbursement of the medical bills qua the treatment of his son as detailed hereinabove. Let the respondent-department process the said medical bills and award the petitioner the amount he is entitled for under the reimbursement policy. Let the said payment be made to the petitioner within a period 2 months from the receipt of the copy of the present order.

8. Writ petition is allowed in above terms.

(HARSIMRAN SINGH SETHI)
JUDGE

04.10.2023
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Whether reasoned/speaking?	Yes/No
Whether reportable?	Yes/No