

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2250 of 2021

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Maina Devi W/o Late Shyam Bihari Ram resident of Village P.O.-Deokuli,
P.S. Brahmpur, Destrict-Buxar.

... .. Petitioner/s

Versus

1. The State of Bihar through District Magistrate, Buxar.
2. The Director General of Police Bihar, Patna
3. The Deputy Inspector General Koshi Region, Saharsa.
4. The Superintendent of Police Madhepura.
5. The Accountant General Bihar.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Kunal Tiwary, Advocate
For the Respondent/s : Mr. Mohammad Irshad, Advocate

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

10 02-01-2024 Heard Mr. Kunal Tiwary, learned counsel appearing
on behalf of the petitioner and Mr. Mohammad Irshad, learned
counsel for the State.

2. The petitioner, a hapless widow of late Shyam Bihari Ram, who died in harness on 21.12.2011 while working on the post of sub-inspector, in Madhepura police station on account of renal failure, has filed the present writ petition for payment of arrears of 6th pay revision of the salary of the petitioner's husband as well as the amount payable for a period of three hundred days for earned leave and admissible dues of 3rd ACP and medical reimbursement amount, which was incurred in the medical treatment of petitioner's husband during



his service.

3. During the course of argument the learned counsel for the petitioner confined his prayer only with respect to the benefit under the 3rd ACP and medical reimbursement amount.

4. A counter affidavit has been filed on behalf of respondent no. 4. It is submitted that neither the husband of the petitioner nor the petitioner has submitted the medical bill alongwith cheque slip in the proper format, thus the claim of the petitioner has been negated. It is next submitted that notwithstanding the request made to the petitioner to submit proper medical bills alongwith the certificate of treating doctors as per the standing order of the police headquarter in proper format, so that the same could be duly processed, the same has not been done.

5. So far the claim of 3rd ACP of the husband of the petitioner is concerned, the same was duly considered by the police headquarter, and came to be rejected vide memo no. 8/P-2, dated 03.01.2020, owing to the major punishment awarded to petitioner's husband.

6. Learned counsel for the respondent by referring to the further averments made in the counter affidavit has submitted that so far other dues are concerned all have been



paid to the petitioner much earlier, all the more the elder son of the petitioner has also been appointed on the post of constable under the compassionate appointment.

7. A re-joinder to the counter affidavit has been filed on behalf of the petitioner. It is submitted that the petitioner's husband was all along under treatment at IGIMS, Patna and further All India Institute of Medical Science as well as Shekhar Hospital on account of his renal failure.

8. He further submits that while the husband of the petitioner was alive, he had also submitted certain medical bills alongwith his representation on 06.09.2010 before the Deputy Superintendent of Police, Welfare Government of Bihar, Patna informing the authority that approx Rs. 3,00,000/- has been spent by the petitioner till the relevant period and accordingly a request was made for reimbursement of the amount incurred in his medical treatment.

9. It is next submitted that while the matter of reimbursement was pending consideration, in the mean time he died on 21.12.2011 and now, when the present writ petition has been filed, the respondent has come up with all such kind of plea that the medical reimbursement will be made only after submission of cheque clip, medical certificate, medical



reimbursement certificate, investigation report alongwith the certificate issued by the treating doctors.

10. Mr. Kunal Tiwary, learned counsel for the petitioner submits that the petitioner is an old illiterate widow and now it is impossible for her to get the certificate from the doctor(s) under whose treatment her husband was, however, he submits that all the bills have been placed on record by filing the rejoinder to the counter affidavit, duly sworn by the poor widow. That apart, earlier the husband of the petitioner had already submitted medical bills of approximately Rs. 3,00,000/-.

11. He next submits that so far the claim of the petitioner's husband with regard to the benefit under the 3rd ACP is concerned, the recommendation had already been made way back in the year 2017 itself by the Superintendent of Police, Madhepura and moreover the respondent has not come out with any specific plea as to what punishment has been inflicted to the husband of the petitioner. Save and except, a bald assertion that the husband of the petitioner was inflicted with major punishment, there is no material justifying the denial of the benefit of 3rd ACP.

12. Before parting with the final outcome, it would be relevant to observe that the reimbursement of medical claim is a



statutory right, incorporated to extend the financial succor to the employee(s) and his/her defendant, in the hour of need, and thus, such right cannot be defeated on mere technicalities. This Court deems it proper to quote two paragraphs of the judgment rendered in the case of Shiv Kant Jha vs. Union of India, (2018) 6 SCC 187, only to appreciate the settled legal principle of medical reimbursement :-

“17. It is a settled legal position that the government employee during his lifetime on after his retirement is entitled to get the benefit of the medical facilities and no fetters can be placed on his rights. It is acceptable to common sense, that ultimate decision as to how a patient should be treated vests only with the doctor, who is well versed and expert both on academic qualification and experience gained. Very little scope is left to the patient or his relative to decide as to the manner in which the ailment should be treated. Speciality hospitals are established for treatment of specified ailments and services of doctors specialised in a discipline are availed by patients only to ensure proper, required and safe treatment. Can it be said that taking treatment in speciality hospital by itself would deprive a person to claim reimbursement solely on the ground that



the said hospital is not included in the government order. The right to medical claim cannot be denied merely because the name of the hospital is not included in the government order. The real test must be the factum of treatment. Before any medical claim is honoured, the authorities are bound to ensure as to whether the claimant had actually taken treatment and the factum of treatment is supported by records duly certified by doctors/hospitals concerned. Once, it is established, the claim cannot be denied on technical grounds. Clearly, in the present case, by taking a very inhuman approach, the officials of CGHS have denied the grant of medical reimbursement in full to the petitioner forcing him to approach this Court.

18. This is hardly a satisfactory state of affairs. The relevant authorities are required to be more responsive and cannot in a mechanical manner deprive an employee of his legitimate reimbursement. The Central Government Health Scheme (CGHS) was propounded with a purpose of providing health facility scheme to the Central Government employees so that they are not left without medical care after retirement. It was in furtherance of the object of a welfare State, which must



provide for such medical care that the scheme was brought in force. In the facts of the present case, it cannot be denied that the writ petitioner was admitted in the abovesaid hospitals in emergency conditions. Moreover, the law does not require that prior permission has to be taken in such situation where the survival of the person is the prime consideration. The doctors did his operation and had implanted CRT-D device and have done so as one essential and timely. Though it is the claim of the respondent State that the rates were exorbitant whereas the rates charged for such facility shall be only at CGHS rates and that too after following a proper procedure given in the circulars issued on time to time by the Ministry concerned, it also cannot be denied that the petitioner was taken to hospital under emergency conditions for survival of his life which requirement was above the sanctions and treatment in empanelled hospitals.”

13. Considering the settled legal position, as also the submissions advanced on behalf of the parties and on perusal of the materials on record, this Court direct the superintendent of Police, Madhepura to consider the claim of the petitioner for reimbursement of medical bills, which was incurred in the medical treatment of the petitioner’s husband during his service



period, preferably within a period of 8 weeks from the date of receipt/production of a copy of this order and ensure payment of admissible amount.

14. So far the claim of the petitioner's husband regarding 3rd ACP is concerned, for which the petitioner has already filed a detailed representation, the copy of which has been marked as annexure 10 to the writ petition, it is expected that the concerned Deputy Inspector General, Saharsa Region shall also consider the same and dispose of by a reasoned and speaking order within the afore-noted period.

15. Accordingly, the present writ petition stands disposed off with the aforesaid observation and direction.

(Harish Kumar, J)

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