

03.07.2024
Item No.03
Court No.11
Avijit Mitra

WP.ST 92 of 2024

In re: An application under Article 226 of the Constitution of India;

And

Goutam Roy

- versus -

The State of West Bengal & ors.

Ms. Sima Sengupta

... petitioner

Mr. Tapan Kumar Mukherjee, Ld. A.G.P.,

Mr. Suman Sengupta,

Ms. Sangeeta Roy,

Mr. Sanatan Panja

...for the State respondents

By the earlier order dated 16th May, 2024, this Court constituted a Medical Board and sought for an opinion from the said Board as to whether ‘*Neuropsychiatric disorder*’ can be brought within the purview of Clause 7 of the West Bengal Health Scheme, 2008 (in short, the said Scheme). Pursuant to such direction, the Medical Board has submitted a report before this Court.

A perusal of the same reveals that the Board was of the opinion that one of the daughters of the petitioner namely, Ms. Srijani Roy “*has been suffering from Major Depressive Disorder (MDD), which is a ‘Neuro-psychiatric Disorder’, coupled with Epilepsy, a type of ‘Neurological Disorder’, as included in clause 7 (1) of West Bengal Health Scheme, 2008*’. Accordingly, the Board observed that “*she is entitled for reimbursement of cost of medical*

attendance and treatment of any other disease which may be required for better medical management and improving her life expectancy, as delineated in Notification No. 164- F (Med) WB dated 06/11/2023 of Finance Department, Medical Cell”.

In respect of the petitioner’s wife, namely, Smt. Kasturi Roy and the petitioner’s daughter, namely, Shalini Roy the Board opined that they “*are patients of two different types of ‘Neuro-psychiatric disorders’, which come under the ambit of ‘Psychiatric Disorder’ but not any type of ‘Neurological Disorder’, a listed disease under clause 7 (1) of West Bengal Health Scheme, 2008*”.

The Board also observed that “*inclusion of ‘Psychiatric Disorder’ in the list of diseases under clause 7 of West Bengal Health Scheme, 2008 is within the purview of the West Bengal Health Scheme Authority of Finance Department. ‘Psychiatric Disorder’ may be included in the said list provided it seems justified to the Government*”.

Ms. Sengupta, learned advocate appearing for the petitioner submits that the coverage of the said Scheme has been extended from time to time upon bringing different other diseases within the purview of the said Scheme. In support of such contention, she has placed before us an extract of Annexure-I (As per Order No. 127-F(MED)W, dated 26.11.2021) and a copy of the

notification dated 6th November, 2023. Let copies of the same be kept on record.

State has an obligation to ensure that its employees do not succumb to the medical expenses that had skyrocketed and the said Scheme, which is a beneficent one, would be thrown out of gear in the event a restrictive meaning is applied and benefits are not extended to diseases similar to the diseases mentioned in Clause 7 of the said Scheme. Such coverage is indispensable for better medical management and for improving the life expectancy of the beneficiaries.

In the said conspectus, the petitioner is directed to submit a comprehensive representation to the respondent no.2 annexing the report of the Medical Board, copies of the memo dated 6th November, the extract of Annexure-I, the writ petition along with a copy of this order within a period of three weeks from date.

Upon receipt of the said representation, the respondent no.2 shall consider the same in the light of the observations made by this Court, upon granting an opportunity of hearing to the petitioner and take a decision and communicate the same to the petitioner.

The above exercise shall be completed within a period of eight weeks from the date of receipt of such representation.

Needless to observe, in the event the petitioner's claim deserves acceptance, all necessary follow up steps shall be taken by the respondents, forthwith.

With the above observations and directions, the writ petition is disposed of.

There shall, however, be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the learned advocates for the parties.

(Partha Sarathi Chatterjee, J.) (Tapabrata Chakraborty, J.)