IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.08.2024

CORAM :

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.No.4061 of 2023

A.Devanathan ... Petitioner

-Vs-

1.The District Collector
Villupuram District
Salamedu
Villupuram.

2.The Joint Director of Health Services
Villupuram.

3.The District Treasury Officer
Villupuram.

4.The Zonal Manager
United India Insurance Ltd.,
PLA Ratna Towers
5th Floor, 212 Anna Salai
Chennai 600 006.

5. The Secretary
Government of Tamil Nadu
Department of Finance
Fort St.George, Chennai – 600 009. ... Respondents

(Suo motu added as the 5th respondent
order dt.23.08.2024)

<u>Prayer</u> : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the respondents to reimburse the petitioner forthwith, a sum of Rs.1534,437/- towards reimbursement of admitted medical expenses, together with interest at the rate of 18% per annum, from the date of his discharge on 11.06.2021, till the amounts are actually paid to the petitioner, award costs.

For Petitioner : Mr.V.Ajoy Khose

For Respondents : Mr.Bindran
Additional Government Pleader
for R1 to R3 & R5

Mr.P.Sankaranarayanan
Standing Counsel
for R4

<u>O R D E R</u>

The Government of Tamil Nadu represented by its Secretary, Department of Finance, Fort St.George, Chennai 600 009, is suo motu added as the 5th respondent in this writ petition. Mr.M.Bindran, learned Additional Government Pleader takes notice on behalf of the 5th respondent.

2.This writ petition has been filed for the issue of a writ of mandamus directing the respondents to reimburse a sum of Rs.15,34,437/- for the medical expenses incurred by the petitioner with interest.

3.The case of the petitioner is that he is a retired Village Administrative Officer and a pensioner getting pension from the Government of Tamil Nadu. The New Health Insurance Scheme for pensioners was introduced by the Government of Tamil Nadu and under that Scheme, the petitioner and his wife are entitled to get cashless treatment for all ailments and diseases. The further case of the petitioner is that under the Scheme, there is a tie up with the 4th respondent Insurance Company.

4.During the COVID Pandemic, the petitioner was also infected with the COVID virus. He was admitted in E.S.CON Hospital, Villupuram on 14.05.2021. The petitioner was diagnosed with the 1st variant of COVID 19 viz., fungal sinusitis. The hospital where the petitioner underwent treatment was an empanelled hospital and they did not have facilities to give further treatment to the petitioner. Therefore, a recommendation letter was given by the hospital on 21.05.2021 to take further treatment to the petitioner and this recommendation was made to the Chief Medical Officer of the Madras Medical College. Considering the seriousness of the infection suffered by the petitioner, the petitioner was admitted in Madras ENT Research Foundation on 23.05.2021. He underwent a surgery on 27.05.2021 for black fungus. Ultimately, the petitioner was discharged from the hospital on 11.06.2021. When the petitioner underwent treatment in the Madras ENT Research Foundation, he had spent nearly a sum of Rs.25,00,000/- towards treatment, medicines, surgery and other hospital expenses. The petitioner borrowed money and settled the amount to the hospital.

5.The petitioner submitted a representation on 14.08.2021 to the 2nd respondent along with all the relevant records and requested for reimbursement of the entire amount which was spent by the petitioner towards his treatment. The entire record was placed before the District Medical Board, Villupuram for verification. After getting the report from DMB, it was placed before the District Level Empowered Committee [DLEC] which is headed by the District Collector. The Committee after going through the entire records was pleased to approve a sum of Rs.15,24,437/- and the 4th respondent Insurance Company was directed to act upon this report and to reimburse the medical expenses.

6.The grievance of the petitioner is that there was absolutely no response from the 4th respondent insurance company inspite of the recommendation made by the DLEC. Left with no other option, the present writ petition has been filed before this Court.

7.The 3rd respondent has filed a counter affidavit. The 3rd respondent has taken a stand that the claim made by the petitioner is under consideration before the 4th respondent and that it will be considered in accordance with the relevant Rules and Government Order and the amount will be sanctioned to the petitioner.

8.When the matter came up for hearing on 19.08.2024, this Court passed the following order:

> The grievance of the petitioner is that the petitioner has incurred a sum of R.15,34,437/- towards treatment for black fungus which is a Covid 19 variant. The petitioner is covered under the New Health Insurance Scheme provided by the Government of Tamil Nadu for pensioners and family pensioners. The claim made by the petitioner for medical reimbursement was also considered by the second respondent and the second respondent through communication dated 01.02.2022 acknowledged the fact that the petitioner had incurred a sum of Rs.15,24,437/- and the proposal/recommendation was placed before the fourth respondent Insurance Company.
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> 2. The learned counsel appearing on behalf of the fourth respondent Insurance Company submitted that G.O.Ms.No.222 dated 30.06.2018 under Clause 10 specifically provides that the maximum coverage for treatments and surgeries listed in Annexure I is only Rs.4,00,000/-. In the case in hand, it was contended that the infection that was suffered by the petitioner falls under Serial No.105 in Annexure I. The learned counsel further submitted that for those treatments and surgeries covered under Annexure I-A, the maximum limit is prescribed at Rs.7,50,000/-. Hence, for the medical reimbursement claimed by the petitioner, he will be entitled only for a maximum limit of Rs.4,00,000/-.
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> 3. The learned counsel for the petitioner seeks for time to take instructions in this Regard.
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> 4. Post this case under the caption ‘for orders’ on 23.08.2024.
>
> 19.08.2024.

9.Heard Mr.V.Ajay Khose, learned counsel for petitioner, Mr.Bindran, learned Additional Government Pleader for R1 to R3 & R5 and Mr.P.Sankaranarayanan, learned Standing Counsel for R4.

10.The 4th respondent has placed reliance upon G.O.Ms.No.222 dated 30.06.2018 and has taken a stand that the maximum coverage for treatment underwent by the petitioner is only Rs.4,00,000/-. Therefore, the Insurance Company cannot be directed to pay any amount more than that.

11.The learned counsel for the petitioner has brought to the notice of this Court three Government Orders which are as follows:

(a) G.O.(Ms).No.240 Health and Family Welfare (EAPI-1) department d dated 05.06.2020.

(b) G.O.(Ms).No.280 Finance (Salaries) Department dated 24.06.2020.

(c) G.O.(Ms).No.281 Finance(Pension) Department dated 24.06.2020.

12.Before dealing with the above Government Orders, this Court must keep in mind that when G.O.Ms.No.222 dated 30.06.2018 was issued, no one was even aware of a virus called COVID-19. Therefore, when this Government Order was issued, nobody contemplated that a virulent virus called COVID-19 is going to descend upon this world and challenge the human existence. Therefore, the ceiling that is fixed in G.O.Ms.No.222 dated 30.06.2018 must be confined to the situation as it prevailed during that point of time. After the advent of COVID-19, the impact of G.O.Ms.No.222 dated 30.06.2018, will undergo a sea change. That change was brought out by the above Government Orders which was relied upon by the learned counsel for the petitioner.

13.In the first Government Order in G.O.Ms.No.240 dated 05.06.2020, it was made clear that for all those, Chief Minister's Comprehensive Health Insurance Scheme [CMCHIS] beneficiaries requiring critical care for COVID-19, they can be admitted directly in empanelled private hospitals. In cases of non-critical cases, based on the referral done by the concerned authority, it can be entertained by the empanelled private hospitals. This Government Order made it clear that insofar as the treatment is concerned, the beneficiaries under the CMCHIS will be given a cashless treatment which means that no amount will be collected from the beneficiary who undergoes treatment. The payment that is contemplated under this G.O only pertains to the payment that has to be made to the hospital depending upon the type of treatment given for critical care and non-critical cases. The above Government Order was followed up by G.O.Ms.No.280 dated 24.06.2020. In this Government Order, apart from ceiling of Rs.4,00,000/- which was contemplated in G.O.Ms.No.222 dated 30.06.2018, it also provided for payment for per day for those who take treatment under critical care. The United India Insurance Company was expected to make payments to the empanelled hospital as per recommended rules in this Government Order.

14.G.O.Ms.No.281, dated 24.06.2020, talks about the funds that are contributed by the Government towards the corpus fund for COVID-19 treatment in empanelled hospital. This fund was given to the hospitals since they provide for cashless treatment to the COVID-19 patients who come under CMCHIS.

15.In the case in hand, there is no dispute with regard to the fact that the petitioner underwent critical care and he underwent treatment for a total period of 27 days in two hospitals. The first hospital was an empanelled hospital and the second hospital was a non-empanelled hospital. Even though it is a non-empanelled hospital, the petitioner was referred to that hospital considering the seriousness of the infection suffered by the petitioner. It is also not in dispute that the petitioner is covered under the Health Insurance Scheme. The claim made by the petitioner was considered and the District Medical Board first confirmed the genuineness of the claim made by the petitioner and the report was placed before the District Level Empowered Committee headed by the District Collector. This Committee once again went through the process of considering the claim made by the petitioner and the Committee recommended for reimbursement of a sum of Rs.15,24,437/-.

16.The Insurance Company is claiming that their ceiling is only Rs.4,00,000/- and that they cannot be made to pay more than Rs.4,00,000/-.

17.The petitioner must have received treatment without spending any amount as per G.O.Ms.No.240 dated 05.06.2020. If that had happened, there was no need for the petitioner to claim for any reimbursement. Unfortunately, the petitioner had already spent from his pocket. If the petitioner had been given cashless treatment, the hospital would have been reimbursed by the Government which had provided funds for this purpose under G.O.Ms.No.281 dated 24.06.2020. Therefore, instead of driving the petitioner from pillar to post, the 4th respondent insurance company can be directed to settle/reimburse the amount to the petitioner and in turn, the 4th respondent insurance company can be permitted to collect the amount in excess of the ceiling from the Government. This will sufficiently take care of the interest of the petitioner as well as the interest of the 4th respondent Insurance Company.

18.In the light of the above discussion, there shall be a direction to the 4th respondent Insurance Company to settle the amount of Rs.15,34,437/- towards reimbursement to the petitioner within a period of **six weeks** from the date of receipt of copy of the order. On such settlement, the 4th respondent insurance company is permitted to seek for reimbursement of the amount paid in excess of the ceiling amount of Rs.4,00,000/- from the Government of Tamil Nadu, Finance (Pension) Department. On such request made by the 4th respondent Insurance Company, the claim shall be entertained by the concerned department and the insurance company shall be reimbursed with the amount paid in excess of the ceiling amount of Rs.4,00,000/-.

This writ petition is disposed of with the above directions. No costs.

23.08.2024

Index : Yes/No
Neutral Citation : Yes/No
Speaking Order : Yes /No
KP

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