



WEB COPY

W.P.No.5547 of



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.08.2024

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THE HONOURABLE MR.JUSTICE VIVEK KUMAR SINGH

W.P.No.5547 of 2021
and W.M.P.No.6184 of 2021

K.Kumaran

... Petitioner

Vs.

1.The Assistant Commandant/DDO-CISF,
Central Industrial Security Force,
Southern Zone Headquarters,
I Floor, 'D' Block, Rajaji Bhavan,
Besant Nagar, Chennai 600 090.

2.The Deputy Inspector General,
Central Industrial Security Force,
Southern Zone Headquarters,
I Floor, 'D' Block, Rajaji Bhavan,
Besant Nagar, Chennai 600 090.

3.The Director General,
CISF Headquarters,
No.13, CGO Complex,
Lodhi Road, New Delhi 110 003.

4.The Vizag Steel Plant,
(Government of India Undertaking)
Rep by its Managing Director,
Administrative Block, Vizag 530 031.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India,



to issue a Writ of Certiorarified Mandamus, to call for the records of the proceedings bearing No.F20014/1/Med/Accts-III/SZ-I/2020-6424 dated 20.11.2020 of the first respondent and quash the order passed therein and consequently direct the respondents to reimburse the entire medical claim of Rs.4,57,724/- submitted by the petitioner.

For Petitioner : Mr.P.Sankaranarayanan

For Respondents : Mr.G.Ilangovan, CGSSC for R1 to R3
M/s.Aboorna M.X for
M/s.Sarvabhauman Associates for R4

ORDER

This Writ Petition has been filed for quashment of the proceedings bearing No.F20014/1/Med/Accts-III/SZ-I/2020-6424 dated 20.11.2020 of the first respondent and consequently, direct the respondents to reimburse the entire medical claim of Rs.4,57,724/- which was submitted by the petitioner.

2. Heard the learned counsel on either side and also perused the materials available on record.

3.The case of the petitioner is that while the petitioner was working in the office of the Commandant, CISF Unit, functioning in the office of the fourth respondent, his wife suffered reeling sensation, darkness in vision and



headache and she was diagnosed to have been affected with brain tumor.

Initially, the petitioner's wife pursued the treatment in CMC Hospital, Vellore, which is empanelled under the fourth respondent Management. Thereafter, CMC Hospital deferred surgery and gave an option to seek second opinion. Thereafter, the petitioner's wife obtained further opinion from the Leelavathi Hospital and Research Centre, Mumbai and the said Hospital advised the petitioner's wife to undergo surgery and indicated in writing that the approximate cost of the surgery is Rs.5 lakhs. Thereafter, the petitioner sought permission from the Unit Head, Vizag for his wife to undergo treatment in the said Hospital and also requested to give credit/referral letter from the fourth respondent Management. After that, Leelavathi Hospital and Research Centre, Mumbai reduced the cost of surgery and hospitalization to Rs.4.5 lakhs and the said fact was intimated to the fourth respondent and after necessary correspondences, the fourth respondent Management sanctioned a sum of Rs.3.6 lakhs as advance amount. Thereafter, the petitioner's wife underwent surgery and after post-operative care and hospitalization was discharged after ten days. Thereafter, the petitioner submitted all the medical bills and sought for balance amount, however, the balance amount was not settled. Thereafter, the first respondent with the



approval of the second respondent informed the petitioner vide the impugned proceedings dated 19.07.2013 that the fourth respondent Management dis-allowed the medical claim and ordered recovery of the medical advance after deducting the minimum amount of Rs.56,968/-. Aggrieved by the same, the petitioner has filed a Writ Petition in W.P.No.26873 of 2013 and this Court had disposed of the same directing the first respondent for fresh consideration. In pursuance of the order of this Court, the first respondent by impugned order dated 20.11.2020 without considering the matter afresh, had again mechanically passed an order dis-allowing the claim of the petitioner stating that the wife of the petitioner had not taken treatment in an MOU Hospital of the fourth respondent. Against which, the petitioner has filed the present petition.

4. The learned counsel for the petitioner submitted that the medical ailment undergone by the wife of the petitioner is not disputed, however, the first respondent has passed the impugned proceedings stating that the wife of the petitioner had not taken treatment in a MOU Hospital of the fourth respondent. In support of his contention, he relied a judgment of the Hon'ble Supreme Court in the case of *Shiva Kant Jha Vs. Union of India* in



W.P.(Civil).No.694 of 2015 and it is essential to extract paragraph No.13 of the judgment, which reads as follows:-

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“13.It is a settled legal position that the Government employee during his life time or 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 specialized 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 factum of treatment. Before any medical claim is honoured, the



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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 the CGHS have denied the grant of medical reimbursement in full to the petitioner forcing him to approach this Court.”

5. The learned Central Government Senior Standing Counsel appearing for the respondents 1 to 3 submitted that the reason for rejection of medical reimbursement is that the petitioner had availed medical treatment for his wife in Leelavathi Hospital, Mumbai which is a non MOU Hospital of the fourth respondent and therefore, the petitioner was not entitled to avail the medical facilities extended to the undertaking employees. The fourth respondent had sanctioned the medical claim only for Rs.56,968/- as per PSU/Central Government rate and if the petitioner availed the medical treatment of his wife in a MOU Hospital of the fourth respondent, the petitioner would have got the benefit of the medical facility. Hence, the impugned order passed by the first respondent is proper and valid.



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6. In the light of the decision of the Hon'ble Supreme Court in *Shiva Kant Jha's* case as stated supra, this Court held that the reimbursement of the medical bills of the petitioner cannot be denied. Hence, the petitioner shall make a representation before the concerned Authority within a period of one month from the date of receipt of a copy of this order, by specifying the law laid down with regard to the reimbursement of the medical bills. The Competent Authority is directed to pass orders on the representation made by the petitioner in accordance with the law within a period of one month thereafter.

7. With the above directions, this Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

29.08.2024

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Index : Yes / No

Speaking order / Non-speaking order

To

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