IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.01.2024

CORAM:

THE HONOURABLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.14750 of 2022

S.Chaya Devi ... Petitioner

Vs.

1.The State Level Empowered Committee,
New Health Insurance Scheme of Pensioners
(Including spouses)/Family Pensioners,
Integrated Office Complex for Finance Department,
Veterinary Hospital Campus, Nandanam,
Chennai 600 035
2.The Director of Medical and Rural
Health Services,
Chennai District,
Teynampet,
Chennai 600 006
3.The Chairman / District Collector,
The District Level Empowered Committee,
New Health Insurance Scheme of Pensioners
(Including spouses)/Family Pensioners,
Chennai District Collectorate,
Chennai 600 001 ... Respondents

PRAYER: Writ petition is filed under Article 226 of the Constitution of India to issue a writ of certiorarified mandamus calling for the records pertaining to the impugned order passed by the second respondent vide his office proceedings Ou.Mu.No.620/KA.P1/1/20201 dated 22.09.2021 and quash the same consequently, directing the respondents 1 to 3 to reimburse the medical expenses of Rs.3,06,594/- incurred by the petitioner for taking medical treatment at Sundarapandian Bone and Joint Hospital, Annanagar, Chennai 600 040 with interest at the rate of 9% from 07.02.2020 i.e. the date of last payment made by the petitioner to the hospital till date of reimbursement made to the petitioner within the time fixed by this Court.

For Petitioner : Mr.K.V.Muthu Visakan

For Respondents : Dr.S.Seenivasan,
Special Government Pleader

ORDER

This writ petition has been filed challenging the order passed by the second respondent dated 22.09.2021 thereby rejected the claim of reimbursement of medical expenses.

2. The petitioner's husband retired from Commercial Tax Department. After his retirement, he had been enrolled under New Health Insurance Scheme (hereinafter called as 'NHIS') for pensioners / family pensioners as per GO.Ms.No.222 dated 30.06.2018. Accordingly, it shall be implemented to United India Insurance Company Limited. The annual premium is Rs.3,800/- which will be recovered from the pensioners at the rate of Rs.350/- per month from their monthly pension. It is applicable to the

categories of existing / future pensioners / family pensioners whose pension / family pension is paid out of the consolidated funds of Tamilnadu and who draw their pension from the Pension Pay Office. Accordingly, a pensioner (including spouse) has been eligible to the Insurance Coverage for Rs.4,00,000/- for treatment and surgeries. The petitioner had undergone right hip replacement surgery in the third week of January 2020. She had been taking treatment in Sundarapandian Bone and Joint Hospital, Anna Nagar, Chennai and as such the doctor recommended for medicine. However, she suffered unbearable and severe pain on 02.02.2020 in her right side hip since she was not even able to stand or sit. Immediately, she was taken to the said hospital and she was advised to go for surgery. It was an emergency and as such, she was admitted as in-patient for taking treatment from 02.02.2020 to 07.02.2020. On 03.02.2020, she had undergone surgery and her right hip was replaced. She incurred medical expenses to the tune of Rs.3,06,594/-.

2.1 After Covid-19, she submitted claim before the third respondent to reimburse medical expenses. However,the third respondent rejected her claim for the reason that the treatment was taken in a non-network hospital for non-emergency condition. Hence, the claim of the petitioner was not recommended. Aggrieved by the same, the petitioner preferred appeal before the second respondent for approval of her medical claim. However, it was not considered and as such she approached this Court in WP.No.17640 of 2021 and this Court directed to consider the appeal. However, the appeal filed by the petitioner was rejected on the ground that the petitioner had taken treatment in non network hospital for non emergency condition.

3. Heard, the learned counsel appearing on either side.

4. On perusal of the counter filed by the first respondent and on the submissions made by the learned counsel appearing on either side, revealed that the petitioner had taken treatment in Sundarapandian Bone and Joint Hospital, Chennai. It is non network hospital and not covered under NHIS. As per GO.Ms.No.222 Finance Department dated 30.06.2018, under NHIS medical assistance for approved surgery / treatments undergone in network private hospitals are available in cashless manner only and there is no provision for reimbursement of medical expenses under the said Insurance scheme. However, as per the Government order, the Government permits reimbursement of medical expenses for approved treatment undergone by pensioners in non network private hospitals in case of emergency or following an accident. For treatments undergone in non network hospitals under non

emergency circumstances at the wilful option of the Government servant or pensioner, the expenditure is required to be met by the individual himself / herself and the Government is not obliged to compensate it to any extent either under the NHIS scheme or under the Tamilnadu Medical Attendance Rules. Further, the State Level Empowered Committee which was held on 11.08.2021 recommended the case under scenario III (Covered procedure taken in non network hospital on non emergency condition). Since the petitioner failed to submit relevant medical documents to the Committee and the first respondent requested to obtain those documents from the petitioner and to forward the same. Now the petitioner submitted documents and it has been addressed for obtaining eligible amount under the Tamilnadu Medical Attendance Rules. It is relevant to extract the relevant portion of the appendix to GO.Ms.No.222 Finance (Pension) Department dated 30.06.2018 hereunder:

> *(2)* ***Non-Network Hospital Claims****: Eligible Medical Expenses incurred in Non-Network Hospital during Hospitalisation for Emergency Care or following an Accident by the Beneficiary shall be reimbursed by the Insurance Company subject to the Ceiling Criteria upon submission of claim by the Beneficiary or his/her legalheirs to the Grievance Redressal Officer as listed in the Annexure-V to these Guidelines and the approval of the District Level*

Empowered Committee or State Level Empowered Committee or High Level Empowered Committee. The amounts that can be claimed for reimbursement will be limited to package rates as notified by Government on the recommendations of the Accreditation Committee as per the process stated in clause 15 of these Guidelines.

5. Thus it is clear that medical expenses incurred in non network hospital during hospitalisation for emergency care or following an accident by the beneficiary shall be reimbursed by the Insurance Company subject to the ceiling criteria upon submission of claim made by the beneficiary. The petitioner already had undergone treatment for her hip pain. She was advised to take medicine by the said Sundarapandian Bone and Joint Hospital, Anna Nagar, Chennai. While being so, on 02.02.2020, she had unbearable and severe pain in her right hip. She was unable to stand or sit. Therefore, immediately she was taken to the said hospital and she was advised to go for surgery. As per the medical advice, she had undergone hip surgery on 03.02.2020 and her total right hip was replaced. Therefore, the petitioner had incurred medical expenses to the tune of Rs.3,06,594/-. Admittedly, it is a non network hospital. However, she was under emergency condition. Therefore, on medical advice, the petitioner had undergone hip surgery. It was a major

surgery. The only reason for rejection of reimbursement is that the petitioner had taken treatment in non network hospital for non emergency condition. Though the Empowered Committee has not recommended for reimbursement of medical claim on the ground that the petitioner had taken treatment in non network hospital for non emergency condition, as per GO.Ms.No.222 Finance (Pension) Department dated 30.06.2018, when the claimant incurred medical expenses for emergency care, it can be reimbursed. Though she had taken treatment in non network hospital, admittedly she was under emergency condition and she was advised to go for hip replacement surgery. That apart, the petitioner had taken treatment continuously in the very same hospital. In a case of orthopaedic issues, it is advisable to take treatment in the same hospital for continuous treatment. Therefore, under emergency situation, no one can direct the patient to take treatment in network hospital. Therefore, the case of the petitioner has to be treated as emergency condition and she is entitled for medical reimbursement as per GO.Ms.No.222 Finance (Pension) Department dated 30.06.2018.

6. In view of the above, the impugned order is liable to be quashed. Accordingly, the impugned order of the second respondent dated 22.09.2021 is quashed and this writ petition is allowed. The respondents are directed to reimburse the medical expenses of Rs.3,06,594/- with interest at the rate of 9%

from 26.02.2020 within a period of twelve weeks from the date of receipt of copy of this order. There shall be no order as to costs.

18.01.2024

Index :Yes/No
Internet : Yes/No
Speaking order/non-speaking order
lok

To

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G.K.ILANTHIRAIYAN, J.

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