



WP(MD) No.6169 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **04.06.2024**

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD) No.6169 of 2022

P.Saravanan

... Petitioner

Vs.

1.Joint Director of Health Services,
Government Head Quarters Hospital,
Tirunelveli District at Tenkasi.

2.The Principal,
Government Siddha Medical College and Hospital,
Palayamkottai,
Tirunelveli District.

3.United India Insurance Co. Ltd.,
Represented by its Regional Manager,
PLA Rathna Towers 5th Floor, 212, Anna Salai,
Chennai-6.



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4.MD India Health Insurance TPA Private Limited,
Guna Complex,
443 and 445, Anna Salai,
Teynampet,
Chennai - 600 018.

...Respondents

(R3 and R4 are impleaded vide Court Order dated 08.09.2022
made in W.M.P(MD)No.15462 of 2022)

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus to call for the entire records in respect of the proceedings of the first respondent Na.Ka.No.7210/ka5/2021 dated --.12.2021 (signed on 10.12.2021) and quash the same consequently direct the respondents to sanction the medical reimbursement of Rs.2,29,956/- the medical expenses incurred by the petitioner.

For Petitioner : Mr.V.Kannan

For Respondents : Mr.M.Ramesh – for R1 to R3

Government Advocate

Mr.A.Shajahan – for R3



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ORDER

The present writ petition has been filed seeking a Writ of Certiorarified Mandamus to call for the entire records in respect of the proceedings of the first respondent Na.Ka.No.7210/ka5/2021 dated --.12.2021 (signed on 10.12.2021) and quash the same consequently direct the respondents to sanction the medical reimbursement of Rs.2,29,956/- the medical expenses incurred by the petitioner.

2. Heard Mr.V.Kannan, learned counsel for the petitioner, Mr.M.Ramesh, learned Government Advocate appearing for the respondents 1 and 2 and Mr.A.Shajahan, learned counsel appearing for the third respondent.

3. The medical reimbursement claim made by the petitioner accorded by invoking the benefits under NHIS 2012 scheme has got rejected for the reason that the treatment taken by



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the petitioner is a non-emergency treatment in a non network hospital. However, the petitioner claims that the petitioner is suffering from cancer and had undergone a surgery (Pronotocraniotomy and grosstotal resection) and had also undergone radiation subsequent to this.

4. The claim of the fourth respondent is that it is not an emergency treatment because, as per the surgical call letter issued by Sree Chitra Tirunal Institute for Medical Science & Technology, Thiruvananthapuram, the petitioner has to be admitted on 04.05.2020, but he has actually undergone the surgery only on 24.06.2020 by admitting later. It is further claimed that the petitioner had been under the medical observation earlier and he was discharged on 01.07.2020.

5. There cannot be any argument stating that the cancer is a non emergency treatment. A cancer patient would go to several



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hospitals in order to get an opinion as to the confirmation of his disease. Even after that, there will be an anxiety to choose the best hospital where the treatment according to his belief would be good. Just because the petitioner had registered himself at Sree Chitra Tirunal Institute for Medical Science & Technology, Thiruvananthapuram, for undergoing treatment and he has been issued with a call letter that he should be admitted on 04.05.2020. No such conclusion can be arrived at that the treatment is a non-emergency treatment.

6. It is not denied that the petitioner did not suffer from the alleged Neuro cancer. All the medical records would show that the petitioner was in continuous treatment for the above disease. The medical claim has been rejected only on the shallow reason that he did not admit in the hospital when the call letter was issued to him to get admitted but he had chosen to go on a later date.



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7. The cancer disease is a serious life threatening disease and the person who is affected by cancer is always under emergency circumstances to seek either medical management or surgical management as per the medical advise and the situation demands depending upon the stage of the disease. There must be some breathing time for the patients to plan when and where to have the surgical treatment, especially, the surgical intervention. As stated already, there are certain specialised centres which would have the expertise to treat such cases. While making choice of the hospital, the person affected can in all probabilities choose the nearby hospital in view of the long follow up for treating the disease.

8. The learned counsel for the respondents submitted that the hospital in which the petitioner had undergone treatment does not come under the network hospital.



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9. It has been time and again held that even if the hospital is not a network hospital, if the treatment is urgent, the claim for medical reimbursement can be allowed. It does not make much difference between the hospital which are non-network hospital within the State of Tamil Nadu or outside the State.

10. The respondents ought to have considered the claim of the petitioner by taking into consideration of his claim in a comprehensive manner instead of rejecting the same on two technical reasons.

11. The petitioner has not filed any appeal after getting an order from the first level authorities, but simply has given a grievance petition before the District Collector and on which, the first respondent has passed the impugned order. Hence, the impugned order cannot be treated as an order passed by the District Level Empowering Committee and on the appeal, if any, is filed by



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the petitioner challenging any earlier orders in respect of his claim for medical reimbursement.

12. In view of the above observation, the writ petition is **allowed** and the impugned order, dated --.12.2021 of the first respondent is set aside and remanded back to the first respondent to reconsider the claim of the petitioner by considering the serious and fatal nature of the disease and pass appropriate orders within a period of three weeks from the date of receipt of a copy of this order. No costs.

04.06.2024

Index : Yes / No
Internet : Yes / No
NCC : Yes / No

RM



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To

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Tirunelveli District at Tenkasi.
2. The Principal,
Government Siddha Medical College and Hospital,
Palayamkottai,
Tirunelveli District.



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R.N.MANJULA, J.

RM

Order made in
W.P.(MD)No.6169 of 2022

Dated:
04.06.2024