



WP(MD). No.19303 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 04/06/2024

CORAM

The Hon`ble Ms.Justice R.N.MANJULA

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Nazeer Ahamed Khan A.M

... Petitioner

Vs

1. The Government of Tamilnadu,
Represented by its Secretary,
Department of Health and Family Welfare,
Fort St.George, Chennai.

2. The Additional Chief Secretary,
to the Government,
Government of Tamil Nadu,
Finance Department,
Fort St.George,
Chennai.

3. The Treasury Officer,
District Treasury Office,
Tirunelveli District 627 009.

4. United India Insurance Company,
Ltd.,,
Tamil Nadu Government Employees New Health Insurance Scheme
2014, Rep by its Divisional Manager,
Divisional Office Vi, Pla Rathna Towers,, ... Respondents



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PRAYER :- Writ Petition filed under Article 226 of Constitution of India, praying this Court to issue of Writ of Certiorarified Mandamus to call for the records pertaining to the impugned order in G.O.(Rt) No.587 Finance (Health Insurance-2) Department dated 23.09.2021 passed by the Respondent No.2 and quash the same as illegal and consequently direct the Respondents to reimburse the medical expenses to the tune of Rs. 2,39,486/- (Two Lakh Thirty Nine Thousand Four Hundred and Eighty Six Rupees ony) along with interest within the time period stipulated by this Court.

For Petitioner : Mr.S.Rajasekar for
M/s. Lajapathi Roy & Associates,
For Respondents : Mr.J.Ashok for R1 to R3
Additional Government Pleader
Mr.A.Shajahan for R4

ORDER

The writ petition has been filed challenging the impugned order dated 23.09.2021 of the respondent No.2 and consequently direct the respondents to reimburse the medical expenses to the tune of Rs.2,39,486/- (Two Lakh Thirty Nine Thousand Four Hundred and Eighty Six Rupees ony) along with interest within the time period stipulated by this Court.



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2. Heard the learned counsel for the petitioner, the learned Additional Government Pleader for the respondents 1 to 3 and the learned counsel for the 4th respondent.

3. The petitioner, who is a retired Sub Inspector of Police, covered under the health insurance scheme of the 4th respondent. The petitioner claims that as per G.O.Ms.No.430 dated 10.09.2007 all the Government employees are covered under the health insurance scheme and the petitioner had taken medical treatment from 27.05.2016 to 11.06.2016 and he claimed medical reimbursement for the expenses incurred by him. The claim for reimbursement was rejected stating that the treatment was taken in a non networking hospital. The petitioner's entitlement was limited to sum of Rs.27,445/-.

4. The petitioner sent a request on 09.09.2021 stating that the Government issued G.O.Ms.No.401 dated 09.09.2021 Health and Family Welfare Department, the upper limit of the quantum of medical reimbursement has been raised. Hence, the petitioner's claim should be considered under the purview of G.O.Ms.No.401 dated 09.09.2021 and



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hence, the order of rejection under the National Health -2 Insurance dated 23.09.2021 should be set aside and remaining amount of Rs. 2,39,486/- should be allowed.

5. The learned Additional Government Pleader, however, submitted that G.O.Ms.401 dated 09.09.2021 should be given with prospective effect and hence, the petitioner cannot claim the benefit for the treatment during the year 2016.

6. It is needless to state here that every Government order is being given prospective effect and not retrospective effect.

7. If the petitioner claims that he is entitled to G.O.Ms.No.401, dated 09.09.2021 then, it is applicable to those persons, who have been given with partial sanction during the year between 2015 and 2021 to make similar such claims. Such a possibility cannot be allowed.

8. For better clarity, the said G.O.Ms.No.401 dated 09.09.2021 is extracted hereunder:



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“In the G.O first read above, orders were issued revising the Government rates for investigations for paying patients. 2. It has been observed by the Government that the New Health Insurance Scheme is being implemented on a cashless scheme for Government employees and Pensioners. Due to this scheme, there has been a substantial reduction in the reimbursement claims under Tamil Nadu Medical Attendance Rules. When the Hospital is not covered or the treatment is not enlisted under New Health Insurance Scheme, Employees and Pensioners apply under the Tamil Nadu Medical Attendance Rules, to get re-imbursement of Medical expenses. The reimbursement claims under Tamil Nadu Medical Attendance Rules are calculated based on the rates collected from paying patients. Therefore, it has been decided to revise the Government rates as it was fixed as early as in the year 1995 and more than twenty six years have passed since this revision. Non-revision of rates directly affects the Employees / Pensioners getting reimbursement under the Tamil Nadu Medical Attendance Rules as they get only a part of the actual expenditure incurred, which has led to many litigations in the Court.

3. In the letters, second, third and fourth read above, the Director of Medical Education and the



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Director of Medical and Rural Health Services have sent the proposal for revision of Government rates to be collected in the Government hospitals for paying patients based on the report received from the following hospitals/institutions:

I) The Director of Institute of Pathology, Rajiv Gandhi Government General Hospital, Chennai 3.

(ii) The Director (i/c), Institute of Microbiology, Madras Medical College and Rajiv Gandhi Government General Hospital, Chennai-3.

(iii) The Director and Head, Institute of Cardiology. Rajiv Gandhi Government General Hospital, Chennai-3.

iv) The Bamard Institute of Radiology, Rajiv Gandhi Government General Hospital, Chennai-3.

v) The Director and Professor, Institute of Biochemistry, Madras Medical College and Rajiv Gandhi Government General Hospital, Chennai-3.

4. The Government, after careful examination on the proposal of the Director of Medical Education and the Director of Medical and Rural Health Services have decided to revise / fix the Government rates for the investigation and surgeries for the reimbursement of medical expenses under the Tamil Nadu Medical



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Attendance Rules and accordingly issue the revised rates as in the annexure to this order for the claims in respect of cases of Government employees/ pensioners not covered under New Health Insurance Scheme 2016 and New Health Insurance Scheme 2018 respectively.

5.The Director of Medical Education and the Director of Medical and Rural Health Services are also directed to instruct their subordinates in classifying the operations and investigations as minor, major and special as the case may be.”

9. From the above Government Order, it is clear that the said Government order was issued on 09.09.2021. As such it has been given prospective effect. Since the petitioner's treatment is of the year 2016, he cannot claim the benefit under G.O.Ms.No.401 dated 09.09.2021

10. Since the petitioner cannot get the benefit under the New Insurance Scheme, which came into effect during 2021, he is entitled to get his claim only under the Tamil Nadu Medical Attendance Rules. Hence, now the petitioner cannot take advantage of G.O.Ms.No.401 dated 09.09.2021 and claim that he is entitled to the remaining amount, which was found to be ineligible to be sanctioned in accordance with



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G.O.Ms.No.401 dated 09.09.2021.

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9. Since the very claim of the petitioner itself is misconceived, this writ petition is **dismissed**. No costs.

04.06.2024

NCC : Yes/No
Index : Yes/No
RR

TO

1. The Secretary,
Department of Health and Family Welfare,
Fort St.George, Chennai.

2. The Additional Chief Secretary,
to the Government,
Government of Tamil Nadu,
Finance Department,
Fort St.George,
Chennai.

3. The Treasury Officer,
District Treasury Office,
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R.N.MANJULA, J

RR

**ORDER
IN
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Date : 04/06/2024