BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **04.04.2024**

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD) Nos.25390 to 25393 of 2023

Dr.M.Durairaj	...	Petitioner in W.P.(MD)No.25390 of 2023
Dr.M.Durairaj	...	Petitioner in W.P.(MD)No.25391 of 2023
V.Kuthalingam	...	Petitioner in W.P.(MD)No.25392 of 2023
A.Soorian	...	Petitioner in W.P.(MD)No.25393 of 2023

Vs.

1.The Commissioner of Treasuries and Accounts,
Integrated Finance Complex,
No.571, Anna Salai,
Nandanam,
Chennai.

2.The Divisional Officer
United India Insurance Company,
Divisional Office VI,
5th Floor, PLA Rathna Tower,
212, Anna Salai,
Chennai.

3.The Assistant Treasury Officer,
Sub Treasury,
Tenkasi. ... Respondents in all Writ Petitions

COMMON PRAYER: Writ Petitions filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus to direct the 1st respondent to grant medical reimbursement to the petitioners for their treatment and his wife's treatment undergone for Covid-19.

In all Writ Petitions

For Petitioners : Mr.J.Lawrance

For Respondents : Mr.M.Lingadurai – for R1 & R3
Special Government Pleader
Mr.I.Suthakaran, - for R2
Standing Counsel

COMMON ORDER

The petitioners who had taken treatment for Covid non critical type have filed these Writ Petitions seeking a Writ of Mandamus to direct the first respondent to grant medical reimbursement to the petitioners for whole of the amount incurred towards treatment expenses.

2. Heard Mr.J.Lawrance, learned counsel for the petitioners, Mr.M.Lingadurai, learned Special Government Pleader for the respondents 1 and 3 and Mr.I.Suthakaran, learned Standing Counsel for the second respondent.

3. The details of the applications filed by the petitioners seeking medical reimbursement for Covid-19 treatment, are as follows:

Sl. No.	Case No.	Name of the Petitioner	Amount Claimed	Amount Sanctioned
1.	W.P(MD)No.25390 of 2023	M.Durairaj	3,35,000/-	1,19,500/-
2.	W.P(MD)No.25391 of 2023	M.Durairaj claimed on behalf of his wife		Not sanctioned
3.	W.P(MD)No.25392 of 2023	A.Sooriyan	3,95,700/-	1,12,500/-
	W.P(MD)No.25393 of 2023	V.Kuthalingam	3,43,409/-	1,44,500/-

4. The core issue that has arisen in these matters is that whether the petitioners are entitled to whole of the medical claim or

whether the claim has to be restricted only in accordance with G.O.(Ms)No.280, Finance (Salaries) Department, dated 24.06.2020 and G.O(Ms).No.281 Finance (Pensioners) Department, dated 24.06.2020.

5. The Government of Tamil Nadu has issued both the Government Orders in G.O.(Ms).No.280, Finance (Salaries) Department, dated 24.06.2020 and G.O.(Ms).No.281 Finance (Pensioners) Department, dated 24.06.2020 for the benefit of Government servants and pensioners who had taking treatment for critical and non critical care for Covid-19 positive cases covered under the New Health Insurance Scheme. There is no quarrel that the petitioners who are all pensioners are also covered under New Health Insurance Scheme. But the difficulty comes with the Government Order that had defined the limit of the claim that had been made under the scheme. For the sake of clarity, the relevant part of G.O.(Ms)No.280, Finance (Salaries) Department, dated

24.06.2020 is extracted as below:

4. The Government after careful examination, have decided to accept the same and accordingly issue the following orders:-

i). With respect to **Critical care**, [ICU Ventilated & ICU Non Ventilated]:

(a) The United India Insurance Company Limited shall make payments to all COVID positive cases that receive critical care as per the package rates for existing procedures covered under the New Health Insurance Scheme, subject to a ceiling of Rs.4 lakhs.

(b) In addition to the existing package rates, COVID-19 Management charges as prescribed for the Chief Minister Comprehensive Health Insurance Scheme (CMCHIS) in G.O.Ms.No.240, Health and Family Welfare (EAP1-I) Department, dated 05.06.2020 shall be provided by United India Insurance Company Limited as follows:-

CRITICAL CARE – COVID 19			
ICU Non Ventilated		**ICU Ventilated**	
Without Sepsis/MODS	**With Sepsis / MODS**	**Without Sepsis/MODS**	**With Sepsis / MODS**
Rs.6500/- per day	Rs.6500/- per day	Rs.8500/- per day	Rs.8500/- per day

ii). With respect to **Non-Critical COVID care**, the Government has fixed the following as the ceiling for treatment cost of non-critical COVID cases in empanelled hospitals:

1. A1 and A2 Category Hospital (for individual room)	Rs.9500/- per day + Pharmacy charges
2. A3-A6 Category Hospitals (for individual Room)	Rs.7500/- per day + Pharmacy charges

iii). **Payments to empanelled Hospitals:-**

(a) For critical care, United India Insurance Company Limited shall make payments to empanelled hospitals as per the recommended rates in para 4 (i) above from the New Health Insurance Scheme account.

(b) For non-critical care, the Government has authorised the United India Insurance Company Limited to form two separate Corpus Funds – i.e. (1). Corpus Fund for COVID-19 treatment in empanelled hospitals under New Health Insurance Scheme for Employees - Rs.5 crore and (2). Corpus Fund for COVID-19 treatment in empanelled hospitals under New Health Insurance Scheme for Pensioners/ Family Pensioners - Rs.2.5 crore. The United India Insurance Company Limited shall make payments for COVID-19 treatment as per the above recommended rates in para 4 (ii) to the empanelled hospitals. Accordingly, the Government hereby sanction a sum of Rs.5 crore (Rupees Five Crore only) for New Health Insurance Scheme for Employees and Rs.2.5 crore (Rupees Two Crore and fifty lakh only) for New Health Insurance Scheme for Pensioners initially towards contribution to the two Corpus Funds. The Corpus Funds will be recouped from the Government as and when required.

iv) ***Payments to non-empanelled Hospitals****:- United India Insurance Company Limited shall make payments as per the above rates as per para 4 (i) for critical care for COVID positive cases even in non-empanelled hospitals, as these treatments will come under the Emergency clause of the New Health Insurance Scheme, after getting orders from the District level Empowered Committee on appeal cases. With respect to non-critical care, Government employees and pensioners shall restrict their treatments to empanelled hospitals for the benefit of patient welfare.*

v). The empanelled hospitals should not collect any amount in excess other than the amount as prescribed above in para 4 (i) and 4 (ii). United India Insurance Company Limited shall issue instructions to all the empanelled hospitals in this regard.

vi). Government Employees/Pensioners who have already taken treatment for Non-critical COVID care in empanelled Hospitals from 1.3.2020 to till date are directed to submit their claims for reimbursements by appealing to the Commissioner of

Treasuries and Accounts, Chennai. The Commissioner of Treasuries and Accounts shall recommend to the United India Insurance Company Limited to reimburse the payment from the Corpus fund provided by the Government.

vii). United India Insurance Company Limited shall provide a statement to the Government on the utilization of the Corpus Fund at the end of each quarter."

6. The learned counsel for the petitioner claims that the ceiling fixed under para No.4(ii) should be read in continuation of para 4(i)(b). So, his submission is that para No.4(i)(b) start with the words, "*in addition to the existing package rates*" and hence, the ceiling that has been fixed in the two tabular columns for critical care as well as non-critical care should be interpreted in such a way.

7. Reference can be made to clause 4(i)(a) in order to understand that what is the existing package rates. As per the said

clause 4(i)(a), the package rates for existing procedure covered under the scheme is subjected to a ceiling of Rs.4,00,000/-. The above order has been issued and the words are so employed in the Government Order by taking into consideration of the package system that was prevailed during the Covid-19 pandemic while treating the patients for Covid disease.

8. Many of the hospitals were charging package rates for the patients depending upon the days for which they are admitted in the hospital and the type of the treatment given to them either critical care and non-critical care units. So the Government made it confirmed that even if a person has taken the treatment under the package pattern of any of the hospitals, the maximum ceiling limit would be Rs.4,00,000/-. Having so fixed the maximum ceiling amount of Rs.4,00,000/- for the critical care patients, the additional charges have also been allowed as shown under 4(i)(b). So, the words clearly employed under clause 4(i)(a)(b) and the

table if read holistically would only give a meaning that those part of the Government order is applicable only for the critical care cases and not for non-critical Covid cases.

9. So far as the non critical care cases are concerned, what is allowed in the scheme is Rs.9,500/- per day for room rent plus pharmacy charges, if the hospital where the treatment had taken fall under A1 and A2 category hospital. In respect of those hospitals fall under A3-A6 category, the permissible charges are Rs.7,500/- per day for room rent plus pharmacy charges.

10. Now, the grievance of the petitioner is that even while taking the treatment for non critical Covid care, the petitioners were made to spend a hefty sum like Rs.3,00,000/- to Rs.4,00,000/- etc., for 10 to 13 days. In such cases, depending upon the eligibility of the hospital, if the scheme as contemplated under G.O.Ms.No.280 dated 24.06.2020, is applied, the petitioners would

be eligible to get a very less sum of Rs.1,40,000/- Rs.1,19,000/-, and Rs.1,23,000/- and not beyond that. Since the petitioners are not able to get the rest of the amount spent by them, they have filed these Writ Petitions and sought a direction against the first respondent to sanction the rest of the medical expenses incurred by them.

11. Even without the New Health Insurance Scheme for the employees and pensioners of the Government, the health benefits were given to them under Tamil Nadu Medical Attendance Rules. But however, Tamil Nadu Medical Attendance Rules, might not have mentioned about Covid-19 disease, because people came to know about Covid-19 only recently i.e., March, 2020. The individuals are not benefitted to the extent of reimbursing what amount was actually spent from their pocket even though they are covered under the Scheme.

12. So the Government has also not clarified whether the amount not covered under the New Health Insurance Scheme can be claimed by the individuals through the Tamil Nadu Medical Attendance Rules. Neither any prohibitory Rules are issued to prevent the individuals from raising claims under Tamil Nadu Medical Attendance Rules. So, it is for the Government to take a call and issue a clarificatary order as to how the rest of the amount spent by the individuals, who are covered under the New Health Insurance Scheme and whether they are also eligible to make their claim under Tamil Nadu Medical Attendance Rules. So the first respondent need not refuse the claim to placed under Tamil Nadu Medical Attendance Rules as there is no explicit bar.

13. In view of the same, the first respondent is directed to consider the claim of the petitioners positively and pass necessary orders to sanction the eligible medical reimbursement as

per the Tamil Nadu Medical Attendance Rules within a period of three months from the date of receipt of a copy of this order.

14. With the above direction, these Writ petitions are **disposed of**. No costs. Consequently, connected miscellaneous petitions are closed.

04.04.2024

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

RM

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R.N.MANJULA, J.

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