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**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

**CWP No.138 of 2020
Date of Decision: 18.03.2024**

Sandeep Kumar

..... Petitioner

Versus

State of Haryana & ors.

..... Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Sumit Sangwan, Advocate,
for the petitioner.

Mr. Gaurav Jindal, Addl.A.G., Haryana.

Ms. Nikita Goel, Advocate,
for respondents No.2 to 5.

JASGURPREET SINGH PURI, J. (ORAL)

1. The present writ petition has been filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of certiorari to quash the rejection letter dated 26.09.2018 (Annexure P-1), whereby the claim, of the petitioner regarding reimbursement of medical bills for an amount of Rs.5,32,205.69 spent by the petitioner on his treatment has been rejected.

2. Learned counsel for the petitioner submitted that the petitioner is working as Assistant Sub-Station Attendant in the respondent-Nigam and on 23.04.2017, he met with a road accident while he was going home and he was admitted in Government Hospital, Jhajjar under OPD No.10261, dated 23.04.2017. From the aforesaid hospital, he was referred to PGIMS, Rohtak. He was admitted there at about 9.30 PM under COD No.98548 on the same date i.e. 23.04.2017. Learned counsel submitted that the

petitioner had suffered multiple injuries and due to his serious condition, he was required to be put on ventilator, but at that point of time, PGIMS, Rohtak did not have any ventilator available since all were occupied. Therefore, he was shifted to a private hospital i.e. Sunflag Global Hospital, Rohtak, in a critical condition and due to compelling circumstances and there he was granted the facility of ventilator and his life was saved. He submitted a medical reimbursement bill for an amount of Rs.5,32,205.69 to the respondent-Nigam for medical reimbursement under the policy of the Government. He further submitted that the aforesaid amount was not reimbursed to the petitioner. Therefore, he has filed the present petition.

3. During the pendency of the petition, an amount of Rs.2,42,197/- has been reimbursed to the petitioner, but the remaining has not been paid on the ground that he got his treatment done from a non-empanelled hospital. He submitted that as per the instructions, when an employee is admitted to a non-empanelled hospital then no medical reimbursement is granted until it is a case of emergency and when an employee is admitted to a non-empanelled hospital under emergency then there cannot be a full medical reimbursement and the same is only to the extent of PGI rates. He submitted that as per the reply filed by the Nigam, the petitioner has been granted reimbursement of Rs.2,42,197/- on the basis of PGI rates, whereas the petitioner was entitled to the entire amount of Rs.5,32,205.69 because it was not by choice that the petitioner had gone to the private hospital rather he went to the Government Hospital, Jhajjar, from where he was referred to PGIMS, Rohtak as there was no ventilator available there and therefore, by compulsion, he had to go to a non-empanelled hospital. He further submitted that even otherwise also the aforesaid hospital at that point of time was non-empanelled hospital but later on after few months, the

aforesaid hospital was empanelled as a hospital of the Nigam vide Annexure P-7 dated 27.08.2018. He submitted that in view of the aforesaid facts and circumstances, the petitioner is entitled for the grant of full medical reimbursement. He also referred to judgment of Hon'ble Supreme Court in **Shiva Kant Jha Vs. Union of India, 2018 (16) SCC 187**, in this regard.

4. On the other hand, learned counsel for respondents No.2 to 5 submitted that as per the instructions of the Nigam, since the petitioner had taken treatment from a non-empanelled hospital and he had gone there in emergency condition, he was only entitled for the grant of medical reimbursement to the extent of PGI rates, which has been calculated to be Rs.2,42,197/- and has already been paid to the petitioner and he was not entitled for full reimbursement. She submitted that at the time of accident, the petitioner was taken to Sunflag Global Hospital, Rohtak, which was not empanelled. But later on after few months in the year 2018, the aforesaid hospital was brought within the purview of the empanelled hospitals and in this way, since at the time when the petitioner met with an accident, it was not an empanelled hospital, therefore, he was not entitled for full reimbursement but to the extent of PGI rates, in view of the instructions of the Nigam.

5. I have heard learned counsel for the parties.

6. It is the case where the respondent-Nigam has issued instructions that in case the petitioner seeks treatment from the empanelled hospital then he will be granted full reimbursement but in case he is admitted in private hospital, which is not empanelled, no medical reimbursement is to be granted unless he is admitted in an emergency and in case he is admitted in an emergency then the entitlement is to be restricted only to the extent of PGI rates.

The relevant portion of instructions as supplied by learned counsel for respondents No.2 to 5 is reproduced as under:-

“4. Un approved Hospitals:-

- a) The reimbursement for the treatment taken in an emergency in an un approved hospital will be allowed equal to PGI, Chandigarh rates with the approval of the Administrative Department.
- b) Head of the department in consultation with concerned Civil Surgeon is competent to certify an emergency.”

7. In the present case, after meeting with an accident, the petitioner went to Government Hospital, Jhajjar, from where he was referred to PGIMS Rohtak being in critical condition. A perusal of Annexure P-5 would show that the father of the petitioner had requested the Medical Superintendent of PGIMS, Rohtak that COD Number be provided to him because he had to be shifted to Sunflag Global Hospital because there was no ventilator in the PGIMS, Rohtak. However, a stand has been taken by the respondents to contend that the petitioner has not been able to show the documents that there was no ventilator available in the PGIMS Rohtak. This Court disagrees with the argument raised by learned counsel for the respondents that the petitioner was to show that there is no ventilator in view of Annexure P-5 and also in view of the fact that once the petitioner was referred to a hospital i.e. PGIMS, Rohtak, then why he would get himself shifted to a smaller hospital i.e. Sunflag Global Hospital, Rohtak. There can be no reason to believe that the petitioner despite the fact that the ventilator was there he is shifted to a private hospital. The petitioner got shifted from PGIMS Rohtak to a private hospital because of want of ventilator, which was a life saving device. When he was shifted to Sunflag Global, Hosptial, Rohtak, he was, as per the learned counsel for the petitioner, put on ventilator and in this way, his

life was saved. It is not the case of the parties that the petitioner had straight away approached the private hospital or a non-empanelled hospital, so as to deprive him the full medical reimbursement under the instructions. Firstly, it is a case where the petitioner went to a Government Hospital, Jhajjar from where he was referred to PGIMS, Rohtak and thereafter, under compulsion he was shifted to Sunflag Global Hospital, Rohtak. This was done in order to save the life of the petitioner so as to put him on ventilator and actually his life was saved. The Supreme Court in **Shiva Kant Jha's case (supra)** also observed that because of such kind of medical technicalities, the legitimate rights of reimbursement cannot be defeated. If the treatment of an employee in a non-empanelled hospital was genuine because there was no other option left with him then he is entitled for entire reimbursement.

8. In view of the aforesaid facts and circumstances of the present petition, the same is allowed and the impugned order (Annexure P-1) is hereby set aside. The respondent-Nigam is directed to pay the balance of the medical reimbursement to the petitioner within a period of two months from today. However, there is no order as to any interest or costs.

18.03.2024*monika***(JASGURPREET SINGH PURI)
JUDGE**

1. Whether speaking/reasoned: Yes/No
2. Whether reportable: Yes/No