

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH****CWP-2502-2024**
Reserved on: 05.02.2024
Pronounced on : 09.02.2024**Chandigarh Administration and others**

..... Petitioners

Versus

Sudershan Kaur and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL
HON'BLE MR. JUSTICE DEEPAK MANCHANDA**Present:** Mr.M.K. Dogra, Addl. Standing counsel and
Ms.Bisman Mann, Panel counsel for the petitioners**Deepak Sibal, J.**

1. Through the present petition the Chandigarh Administration and others challenge the judgment passed by the Central Administrative Tribunal, Chandigarh Bench (for short – the Tribunal) dated 25.08.2023 through which the Tribunal has allowed respondent No.1's Original Application (for short – OA) filed by her to challenge therein the denial of medical reimbursement.

BRIEF FACTS

2. Respondent No.1 is the widow of Karam Singh. On 31.01.2003 Karam Singh retired as Inspector from Chandigarh Transport Undertaking. Respondent No.1 was detected with cancer for which she got treatment from 06.05.2019 to 07.08.2019 from Sri Guru Ram Das Cancer Hospital, Amritsar. On 13.11.2019 respondent No.1 sought medical reimbursement for the expenditure incurred by her for her above treatment. The amount claimed was Rs.3,24,411/-. On 04.12.2019 respondent No.1's claim was returned as alongwith her claim she has not appended "a complicated chronic disease certificate" (for short – the certificate). As required, respondent No.1 then

produced the certificate issued by Sri Guru Ram Das Cancer Hospital, Amritsar dated 27.12.2019. In the meanwhile, medical bills submitted by respondent No.1 amounting to Rs.19871/- were processed as according to the petitioners for these bills the certificate was not required. Thereafter, the entire claim made by respondent No.1 was rejected for want of the certificate from a government hospital. On 11.01.2021 a fresh application for reimbursement of her medical expenses was submitted by respondent No.1. Alongwith this application she appended the required certificate dated 03.07.2020 issued by the Government Medical College and Hospital, Sector 32, Chandigarh. When for over a year her application was not responded to she knocked the doors of the Tribunal seeking reimbursement of medical expenses incurred by her alongwith interest. The Tribunal found respondent No.1's claim to be genuine and the inaction on the part of the petitioners to be hyper technical. Resultantly, after relying upon the law laid down by the Supreme Court in Shiva Kant Jha vs. Union of India, (2018) 16 Supreme Court Cases 187, respondent No.1's OA was allowed resulting in the issuance of directions to the petitioners to settle the medical claim of respondent No.1 within 02 months from the date of receipt of a certified copy of the order.

3. Mr.M.K. Dogra, who appears for the petitioners submitted that the petitioners have rightly denied the reimbursement of the medical expenses incurred by respondent No.1 as for the treatment taken by her from 06.05.2019 to 07.08.2019 from Sri Guru Ram Das Cancer Hospital, Amritsar, respondent No.1 had not attached with her claim the certificate from a government hospital.

4. In support of his argument Mr.Dogra relied on condition No.(iii) of Rules/letter of Punjab Government dated 01.09.2000 duly adopted by the

Chandigarh Administration vide letter No.37/1/26/F/II(14)-2000 dated 30.10.2000 and the Punjab Services (Medical Attendance) Rules, 1940 governing reimbursement of medical expenses incurred by the employees/ pensioners of Chandigarh Administration which reads as under:-

“The first certificate that the employee/ pensioner or any dependent member(s) of his family is suffering from any of the Complicated Disease, will be obtained from any State Government Medical College, Post Graduate Institute of Medical Education and Research (PGI) Chandigarh and All India Institute of Medical Sciences (AIIMS), Delhi. The patient will have to present himself / herself for fresh check-up after one year or a shorter period as the Medical Authority mentioned above may require.”

5. Learned counsel for the petitioners has been heard at length and with his able assistance the record of the case has also been perused.

6. Neither the treatment taken by respondent No.1 from Sri Guru Ram Das Cancer Hospital, Amritsar nor from Government Medical College and Hospital, Sector 32, Chandigarh has been disputed by the petitioners. Veracity of the certificates issued by both the aforesaid hospitals with regard to respondent No.1 suffering from a complicated chronic disease are also not doubted by the petitioners. Respondent No.1's medical bills for the treatment taken by her are also not questioned.

7. In the light of the above facts, the afore quoted condition creates no impediment for reimbursement of respondent No.1's claim. The petitioners have acted mechanically to deny what was rightfully due to be paid to respondent No.1. The petitioners' approach is found to be inhuman. It has forced a widow to seek redressal of her rightful claim through institution of legal proceedings.

8. In this regard the following observations by the Supreme Court in Shiva Kant Jha's case (supra) can be usefully referred to:-

“17. It is a settled legal position that the Government employee during his life time or after his retirement is entitled to get the benefit of the medical facilities and no fetters can be placed on his rights. It is acceptable to common sense, that ultimate decision as to how a patient should be treated vests only with the Doctor, who is well versed and expert both on academic qualification and experience gained. Very little scope is left to the patient or his relative to decide as to the manner in which the ailment should be treated. Speciality Hospitals are established for treatment of specified ailments and services of Doctors specialized in a discipline are availed by patients only to ensure proper, required and safe treatment. Can it be said that taking treatment in Speciality Hospital by itself would deprive a person to claim reimbursement solely on the ground that the said Hospital is not included in the Government Order. The right to medical claim cannot be denied merely because the name of the hospital is not included in the Government Order. The real test must be the factum of treatment. Before any medical claim is honoured, the authorities are bound to ensure as to whether the claimant had actually taken treatment and the factum of treatment is supported by records duly certified by Doctors/Hospitals concerned. Once, it is established, the claim cannot be denied on technical grounds. Clearly, in the present case, by taking a very inhuman approach, the officials of the CGHS have denied the grant of medical reimbursement in full to the petitioner forcing him to approach this Court.

18. This is hardly a satisfactory state of affairs. The relevant authorities are required to be more responsive and cannot in a mechanical manner deprive an employee of his legitimate reimbursement. (emphasis supplied)

9. In the light of the above facts and the law laid down by the Supreme Court in Shiva Kant Jha's case (supra) the Tribunal is found to have committed no error, in fact and in law, in allowing respondent No.1's OA.
10. Dismissed with costs which are quantified at Rs.10,000/-.

(Deepak Sibal)
Judge

09.02.2024
gk

(Deepak Manchanda)
Judge

Whether speaking/reasoned : Yes / No
Whether reportable : Yes / No