



CWP-4800-2024 (O&M)

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

**CWP-4800-2024 (O&M)
Date of Decision: 27.09.2024**

Raj Kumar Garg

.....Petitioner

Versus

Haryana State Agricultural Marketing Board and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- Mr. Sukhdeep Singh, Advocate for
Mr. Parminder Singh, Advocate for the petitioner.

Mr. Samarth Sagar, Advocate for the respondents.

JASGURPREET SINGH PURI J.(Oral)

1. The present petition has been filed under Articles 226/227 of the Constitution of India seeking issuance of a writ in the nature of *certiorari* for quashing the order dated 29.01.2024 (Annexure P-5) whereby full reimbursement of the petitioner's medical bills was rejected.

2. While giving the facts of the present case, learned counsel for the petitioner submitted that the petitioner was working as an SDO in the office of respondent-Haryana State Agricultural Marketing Board (hereinafter to be referred to as 'Board') and retired on 31.10.2023. He submitted that when the petitioner was in Ujjain, Madhya Pradesh, he suddenly had chest pain on 17.07.2023 and was taken to Avanti Hospital, Ujjain, wherein there was no ventilator support and consequently, he was immediately shifted to Medanta Super Speciality Hospital, Indore in the emergency for further treatment and thereafter, bypass surgery was carried out on 21.07.2023 on him and



ultimately he was discharged on 09.08.2023. He submitted that medical bills of the aforesaid Medanta Super Speciality Hospital, Indore amounting to Rs.22,00,040/- were submitted to the respondent-Board but as per the reply filed by the respondent-Board, only an amount of Rs.5,36,232/- was paid to the petitioner which was otherwise recovered from the insurance company. He submitted that remaining amount of Rs.16,63,808/- still remains payable to the petitioner. He further submitted that the entire medical bill which was issued by the Medanta Super Speciality Hospital, Indore was submitted by the petitioner and the same was required to have been reimbursed fully but as per the reply filed by the respondent-Board only partial amount has been sanctioned by referring to some Government Instructions by which it has been so stated that when an employee or his dependent is admitted in an unapproved hospital even in an emergency condition then the medical reimbursement is to be paid on the basis of the PGI, Chandigarh rates. He further submitted that the aforesaid hospital is an unapproved hospital and that is why he has not been granted full medical reimbursement. Learned counsel further submitted that the petitioner did not go to the hospital by choice for some voluntary treatment but due to the petitioner suffering from chest pain, he was shifted to the aforesaid hospital on 17.07.2023 in an emergency condition and bypass surgery was performed on him on 21.07.2023 and was discharged on 09.08.2023. He further submitted that at that point of time nobody would see as to whether the hospital is an approved or an unapproved one because the focus at that point of time is on saving the life of the patient without considering as to whether any medical reimbursement would be given or not and, therefore, the petitioner is entitled



for full reimbursement of the medical expenses incurred by him during the aforesaid treatment.

3. Learned counsel for the petitioner also referred to the certificate vide Annexure P-3 issued by the Medanta Super Speciality Hospital, Indore wherein it has been so certified that the petitioner was brought in the hospital in emergency condition and he underwent Coronary Artery Bypass Grafting Surgery on 21.07.2023 and remained there for post-operative care and in this way he got discharged on 09.08.2023 as per the discharge summary vide Annexure P-1.

4. On the other hand, learned counsel for the respondent-Board submitted that the only objection which the respondent-Board has is that the aforesaid hospital i.e. Medanta Super Speciality Hospital, Indore is not an empanelled hospital in the list of approved hospitals of the respondent-Board. He referred to the medical policy which has been reproduced in para No.5 of the reply and submitted that full reimbursement can only be allowed in all the Government Hospitals in the State of Haryana, UT Chandigarh and AIIMS, New Delhi and in all the Government Hospitals located outside the State of Haryana subject to the condition that the claimant would produce a certificate from the Medical Superintendent/I Head of that Institution declaring it as a Government run hospital/institution. So far as the treatment in an unapproved hospital is concerned, he referred to the aforesaid medical policy wherein it is so provided that reimbursement for the treatment taken in an emergency in an unapproved hospital will be allowed equal to P.G.I. Chandigarh rates with the approval of the Administrative Department and after obtaining verification/recommendation of the Government in the Health Department.



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Further the Head of the department, in consultation with concerned Civil Surgeon is competent to certify an emergency. He submitted that the Head of the Department, in consultation with the concerned Civil Surgeon has not issued any emergency certificate and in view of aforesaid reason, the petitioner is not entitled for full medical reimbursement.

5. I have heard learned counsels for the parties.

6. It is a case where it is not in dispute that the petitioner was admitted in emergency condition in the aforesaid hospital i.e. Avanti Hospital, Ujjain, from where he was shifted to Medanta Super Speciality Hospital, Indore wherein he underwent Coronary Artery Bypass Grafting Surgery. It is clear from Annexure P-3 which is issued by the Medical Director & Director Cardiac Surgery, Medanta Super Speciality Hospital, Indore that the petitioner was admitted in an emergency condition. The objection which has been raised by learned counsel for the respondent-Board based upon the reply was that in view of the policy of the Government of Haryana (Annexure R-1), full reimbursement cannot be given to the petitioner because when a patient is treated in an unapproved hospital even in emergency condition, he will be entitled for reimbursement according to PGI, Chandigarh, rates.

7. The law with regard as to whether the full medical reimbursement in case of emergency treatment is to be given or not is no longer *res integra*. This Court had an occasion to deal with such like situation in ***CWP No.10669 of 2017*** titled as ***Raghubir Singh Vs. Chief Administrator and others*** wherein this Court while referring to the judgment of Hon'ble Supreme Court in "***Shiva Kant Jha Vs. Union of India***", (2018)



16 SCC 187 held that the petitioner was entitled for full reimbursement in the light of Article 21 of the Constitution of India. The relevant portion of the aforesaid judgment of Hon'ble Supreme Court in ***Shiva Kant Jha's case (Supra)*** is reproduced as under:-

“13. Further, the writ petitioner was admitted in emergency condition with complaint of breathlessness on 11.11.2013 in Fortis Escorts Health Institute, which was a non-empanelled hospital at the relevant time. He underwent angiography on 12.11.2013 which revealed diffused disease in left anterior descending coronary artery 50-60%. He had been implanted the CRT-D device (Combo) as part of cardiac resynchronization therapy (CRT) on 12.11.2013. The hospital charged an amount of ₹11,56,293/- for the said treatment, out of which, an amount of ₹10,70,000/- was for the cost of the unlisted cardiac implant (CRT-D) and an amount of ₹3,19,950/- was paid by the Insurance company directly to the hospital.

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. The Central Government Health Scheme (CGHS) was propounded with a purpose of providing health facility scheme to the central government employees so that they are not left without medical care after retirement. It was in furtherance of the object of a welfare State, which must provide for such medical care that the scheme was brought in force. In the facts of the present case, it cannot be denied that the writ petitioner was admitted in the above said hospitals in emergency conditions. Moreover, the law does not require that prior permission has to be taken in such situation where the survival of the person is the prime consideration. The doctors did his operation and had implanted CRT-D device and have done so as one essential and timely.



Though it is the claim of the respondent-State that the rates were exorbitant whereas the rates charged for such facility shall be only at the CGHS rates and that too after following a proper procedure given in the Circulars issued on time to time by the concerned Ministry, it also cannot be denied that the petitioner was taken to hospital under emergency conditions for survival of his life which requirement was above the sanctions and treatment in empanelled hospitals.”

8. This Court is of the considered view that whenever an employee is suffering from an emergency condition then the entire focus is always on saving the life of the patient and in case there is some pain then the focus is also to relieve the pain. It would be inhuman to say that whenever such like emergency situation arises then an employee should keep on searching the list of approved hospitals and should first go to an approved hospital or a government hospital by ignoring the developing pain at the risk of life.

9. The present is a case where as per the discharge summary and as per the certificate (Annexure P-3), the petitioner was having chest pain when he was in Ujjain and was rushed to Avanti Hospital, Ujjain. However, due to lack of facilities for treating a major cardiac shock, he was shifted to Medanta Super Speciality Hospital, Indore where he got treatment and underwent ‘Bypass surgery’.

10. The reliance which has been made by learned counsel for respondent-Board on some medical policy by making distinction between approved or unapproved hospitals is absolutely violative of Right to Life guaranteed under Article 21 of the Constitution of India. Not only this the

aforesaid stand taken is also contrary to the law laid down by Hon’ble Supreme Court in the case of *Shiva Kant Jha’s case (supra)* in this regard.

11. In view of the aforesaid facts and circumstances and in view of the aforesaid settled law, present petition is allowed and the petitioner is entitled for an amount of Rs.16,63,808/- out of Rs.22,00,040/-. The respondents are directed to pay to the petitioner balance amount of medical reimbursement within a period of three months from today.

12. There shall be no order as to costs and interest.

(JASGURPREET SINGH PURI)
JUDGE

27.09.2024
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Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No