



CWP-8125-2022 (O&M)

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

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CWP-8125-2022 (O&M)

Date of decision: 10.09.2024

Balbir Singh, deceased through LRs

...Petitioner

Versus

State of Haryana and Others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Manjit Singh Gahalawat, Advocate for
Mr. Mohan Singla, Advocate for the petitioner.

Mr. Gagandeep Sanwal, Advocate for
Mr. Manvendra Bishnoi, Advocate for respondent No.4

Ms. Vibha Tewari, AAG Haryana.

AMAN CHAUDHARY, J.

1. The challenge has been made to the letter dated 10.06.2021 issued by respondent No.2, rejecting the claim of the petitioner for medical reimbursement.
2. The petitioner, while working as Peon in the respondent-Department, suffered Carcinoma left PFS with Thyroid cartilage invasion with bilateral cervical lymph nodes with COPD, due to which he was twice operated upon in Mahatma Gandhi Institute of Medical Sciences, Hisar, and his vocal cords were removed. During his admission from 22.11.2019 to 06.12.2019 and 22.12.2019 to 03.01.2020, followed by chemotherapy between 08.01.2020 and 24.02.2020, in the same hospital, no reimbursement was granted, on account of there being no emergency certificate regarding the same and the hospital not empanelled, which though the State of Haryana in less than a year, on 25.08.2020, included in their list, however, for the surgery conducted in the same hospital, it was allowed. As is



stated in the petition, the petitioner being voiceless and physically weak, sought and was voluntarily retired on 30.09.2020.

3. The rejection of the claim of the petitioner for reimbursement of chemotherapy treatment, which was apparently not a standalone one, rather an integrated part of procedure, was *albeit* on the grounds of it having been taken from an un-approved hospital and there being no emergency for the same, are both unsustainable, in view of the Division Bench judgment in **Naunihal Singh vs. Union of India**¹, to which no challenge was made, wherein also it was denied for the same reasons and the order set aside, observing that the State could not fall back upon subterfuges or take shelter under technicalities to defeat right, once it is under obligation to look after the most fundamental of rights given to its citizens namely, 'Right to Life'. Likewise in **Mahipal Singh vs. State of Haryana and others**², the Division Bench had observed that in a case where the life of a human being is at stake, it is too technical to require such a person to hunt for a list of the approved hospitals and then proceed for treatment. The rules/instructions have to be construed liberally in favour of the employees, for granting them the relief, the provision of free medical treatment or reimbursement in lieu thereof being a beneficial act of the welfare State for its employees, if such regulations are applied so strictly, it would result in a disastrous situation and the patient may die. The authorities are not supposed to adopt a wooden attitude and stick to technicalities while dealing with human problems. There can be no mathematical precision while dealing with human beings.

4. This Court in **Rajender Singh vs. State of Haryana**³, held that even

¹ 2011(1) SCT 811.

² 2008(2) SCT 592.

³ 2017(2) PLR 356.



if the Chief Medical Officer had not issued the emergency certificate, it would still not be a basis to decline the medical reimbursement to the petitioner therein, who was treated for cancer and subjected to chemotherapy, while observing that the emergency is not to be seen only from the point of view of this State but also from that of the petitioner/patient also. When his life is in danger, he is supposed to move to the best hospital which in his opinion can treat him. There was no challenge made to the above judgment.

5. The Division Bench of this Court in **Kundan Lal vs. Haryana Vidyut Parasaran Nigam Ltd.**⁴, while observing that chemotherapy can be administered in the OPD as well and held that, "...The treatment of the disease, namely, Carcinoma Splenic Flexure has to be treated under a composite scheme which commenced with the surgery and then Radiotherapy followed by Chemotherapy. Neither of these can be separated from each other as all the three dovetail each other although the treatment of Chemotherapy is given outdoor and therefore, merely on that basis the claim made by the petitioner could not have been rejected...".

6. Hon'ble the Supreme Court in **Shiva Kant Jha vs. Union of India**⁵, held that the claim for reimbursement of a person, who has undertaken treatment in a speciality hospital by itself would not be deprived solely on the ground that the name of the hospital is not included in the government order. Once the treatment was supported by medical bills, duly certified by doctors/hospitals, then the reimbursement of the same cannot be denied on technical grounds. It was observed that the real test was the factum of treatment, for which the ultimate

⁴ 2009(5) SLR 362.

⁵ (2018) 16 SCC 187



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. Speciality hospitals are established for treatment of specified ailments and services of doctors specialised in a discipline are availed by patients only to ensure proper, required and safe treatment.

7. In **State of Punjab vs. Ram Lubhaya Bagga**⁶, it had been observed that Article 21 of the Constitution to be one of the most sacred fundamental rights given to a citizen. Since right to life is protected under this Article, hence refusing to pay the amount spent to save one's life amounts to the curtailment of such right, hence violative of Article 21. The right to live does not mean mere survival or animal existence but includes the right to live with human dignity. Pith and substance of life is the health, which is the nucleus of all activities of life including that of an employee or other viz. the physical, social, spiritual or any conceivable human activities. If this is denied, it is said everything crumbles.

8. The State cannot backtrack and deny the benefit of the legislative measure or executive orders passed by it for giving effect to the contents of the Directive Principles of the State Policy, which form part of the right to life enshrined in Article 21 of the Constitution and it is their duty to provide adequate assistance to the people in cases of sickness. Various finer aspects of life would be rendered meaningless if one cannot get adequate medical attention. In fact, providing of medical assistance to sick and disabled is an integral part of the obligations of the State to improve public health. Therefore, every provision made by the State legislature or executive for providing medical assistance will be

⁶ (1998) 4 SCC 117.



deemed to have their source in Articles 21, 41 and 47 of the Constitution and in appropriate case the citizen will be entitled to enforce such provisions and it will be no answer to such a claim that the provisions of Article 41 and 47 are not enforceable by virtue of Article 37. [See: **Waryam Singh vs. State of Punjab**⁷]

9. Human life at stake, a timely treatment most certainly takes precedence, thus the State must be alive to the hardships and challenges faced by those suffering from a dreaded disease and instead of a pedantic and technical approach, adopt one that is humanistic and munificence, thereby construing the provisions in a manner so as to achieve their prime objectives of preserving health.

10. On analysis of the position as sketched hereinabove, the impugned order dated 10.06.2021 is hereby set aside. The respondents are directed to reimburse the claim of the petitioner within a period of two months, as per the approved rates.

11. Disposed of.

(AMAN CHAUDHARY)
JUDGE

10.09.2024
ashok

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

⁷ CWP-16570-1995, decided on 12.04.1996