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

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Date of decision: 12.09.2024

Sunita Devi

....Petitioner

Versus

State of Haryana and Others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Sanjay Ghalawat, Advocate for the petitioner.

Ms. Vibha Tewari, AAG, Haryana.

AMAN CHAUDHARY, J. (ORAL)

1. Aggrieved by the rejection of the claim for medical reimbursement on account of non-grant of the 'Emergency Certificate', the petitioner approached this Court challenging the letters/orders dated 24.03.2022 and 09.08.2022.

2. The petitioner, during the period of Covid-19 pandemic, was diagnosed with the virus and took earned leave from 09.12.2020 to 18.12.2020 whereupon she visited the Civil Hospital, Jhajjar for check up and Dr. Sanjeev Hasija advised for the HRCT Chest test, which was conducted at Narula Diagnostic Centre, Rohtak on 20.12.2020. Thereafter, she took extended leaves on several occasions in furtherance of the advice of the doctor and finally joined duty on 03.05.2021. However due to chest pain, swelling in the feet, fever and other such symptoms, she was again admitted in Hitaishi Hospital, Rohini, New Delhi on 03.06.2021, wherefrom she had earlier been taking treatment and discharged on 08.06.2021 with the emergency certificate



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issued by the said hospital observing therein that she was diagnosed to be suffering from 'Post Covid Sequelae with DM with Right Lung Paracardiac opacity' and the discharge summary revealed her CRP (C-reactive protein, determining inflammation in the body) level to be 351 as against the normal range being below 5. However, the Civil Surgeon without even adverting to the aforesaid merely opined on 02.02.2022, it to be a case not of emergency.

3. The premise for rejecting the claim is that the treatment for lung infection was firstly, taken from an un-approved hospital and secondly, there being no emergency for the same, are not well-founded, in view of the Division Bench judgment in **Shakuntla vs. State of Haryana**¹, against which an unsuccessful challenge was made by the State, wherein also the order was passed on the same grounds to deny reimbursement, that was set aside, observing that at the time of emergency, a person is not expected to weigh the circumstances in terms of money especially in the event where saving life is of paramount importance. It is obligatory on the part of the Government to take a look at the whole situation with a broader perspective and in a far more positive manner than applying the normal mathematics. 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

¹ 2004 (1) SLR 563.
² 2008 (2) SCT 592.



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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 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 the 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. A beneficial reference can be made to **Suman Rakheja vs. State of Haryana**⁴, wherein the treatment was taken from an un-approved hospital and discharge certificate clearly stated the case to be of 'Emergency', Hon'ble the Supreme Court allowed the appeal by granting the refund for the medical expenses incurred. Further, in **Shiva Kant Jha vs. Union of India**⁵, it was 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

³ 2017(2) PLR 356.

⁴ 2004 (13) SCC 532

(2018) 16 SCC 187



treatment, for which the 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. 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.

6. 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.

7. 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.



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Therefore, every provision made by the State legislature or executive for providing medical assistance will be 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]

8. The right to health is an intrinsic element as also an integral facet of life and includes affordable treatment. The State must adopt a humanistic approach, while being alive to the hardships and challenges faced by its subjects. It would be apt to say that without health, the faculties of living have little meaning.

9. In the wake of the facts and circumstances of the case and law laid down, the respondents are directed to reimburse the claim of the petitioner as per the approved rates, within a month.

10. Disposed of accordingly.

(AMAN CHAUDHARY)
JUDGE

12.09.2024
Hemant

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