

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

213

CWP-10430-2018 (O&M)
Decided on : 30.01.2024

GULAB SINGH

...PETITIONER

Versus

STATE OF HARYANA AND ORS.

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

PRESENT: Mr. Amit Kaith, Advocate for the petitioner.

Mr. Saurabh Mohunta, DAG, Haryana.

HARSIMRAN SINGH SETHI, J. (Oral)

1. In the present petition, the challenge is to the order dated 25.09.2017 (Annexure P-4) by which, the respondents decided that the claim of the petitioner for the medical reimbursement is not feasible keeping in view the fact that the treatment was not taken in an emergent situation as well as challenge to the order dated 26.06.2018 (Anneuxre P-3) by which, the claim of the medical reimbursement was declined.

2. As per the facts mentioned, the petitioner retired from Haryana Roadways and is residing in Chandigarh. The petitioner was suffering from kidney problem and on 05.05.2017, due to the said ailment, he was not able to pass his urine and suffered a severe abdomen pain. Keeping in view the

urgency, the petitioner was rushed to nearby hospital in Sector -40B and the petitioner was treated there.

3. While being treated at the said hospital, the only remedy advised for the ailment was surgery. Keeping in view the emergent situation, the surgery was conducted on 10.05.2017 and as the surgery was successful, the petitioner was discharged from Sector-40, hospital.

After discharging from hospital, the petitioner claimed medical reimbursement of his medical expenses incurred to the tune of Rs. 41,549/- . The said claim has been rejected by the respondents by passing order dated 25.09.2017 (Annexure P-4) stating that as the treatment has been taken from a non Government approved hospital and there did not exists any emergent situation so as to take treatment from non approved hospital, no medical reimbursement can be done and it is only in case where the treatment is taken in the emergent condition from unapproved hospital, the reimbursement can be done at PGI rates.

4. Learned counsel for the petitioner submits that once it is not denied that the petitioner underwent the surgery and the surgery related to the kidney treatment where the petitioner was not able to pass the urine and he was suffering severe abdomen pain, the action of the respondents in treating the medical situation of the petitioner as 'non emergent' is totally arbitrary and illegal and hence, the respondents are liable to be directed to reimburse the medical claim at PGI rates.

5. Learned counsel for the respondents submits that the decision that the petitioner took treatment under a medical situation which was not emergent is taken by the doctors hence, the benefit of medical reimbursement has rightly been declined.

6. I have heard learned counsel for the parties and have gone through the record with their able assistance.

7. The treatment is to be taken by an employee keeping in view his medical condition. It is already come on record that the petitioner was suffering from kidney problem and was not able to pass the urine. Keeping in view the age of the petitioner at the relevant time and the severe pain being suffered, the petitioner found that it will be feasible to get the treatment from a nearby hospital rather than going to the PGI where, usually medical assistance takes time, whereas the petitioner was suffering from a severe abdomen pain. Under these circumstances, when a common man is suffering from a severe abdomen pain, he is not required to find a suitable Government hospital or an approval from the authorities concerned to take the treatment from a non-approved Government hospital. Once, it is clear that the petitioner underwent an operation and spend money on the medical treatment, the action of the respondents in treating the medical situation of the petitioner as 'non emergent' cannot be treated as a valid decision. The decision is not only to be taken from the medical perspective but the same should be taken on the perspective of a common man who is suffering from a severe pain and has no objection but to go to nearest hospital for treatment.

8. Keeping in view the above facts and circumstances, the order dated 25.09.2017 (Annexure P-4) is hereby set-aside and the respondents are directed to consider the claim of the petitioner for medical reimbursement under the provision that the medical treatment was taken from the non approved hospital under emergent situation and whatever, the petitioner is entitled for the medical reimbursement keeping in view the medical bills

submitted by him, the medial reimbursement according to the entitlement of the petitioner at PGI rates be released to the petitioner within a period of 08 weeks from the receipt of the copy of this order.

9. The present petition stands allowed in above terms.
10. Pending civil miscellaneous application, if any, shall also stands disposed of.

30.01.2024

(HARSIMRAN SINGH SETHI)
JUDGE

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Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No