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

**CWP-10801-2018
Date of Decision: 02.08.2024**

Raj Singh

..... Petitioner

Versus

Uttar Haryana Bijli Vitran Nigam Ltd. and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Ms. Nidhi Sharma, Legal Aid Counsel,
for the petitioner.

Mr. Nayandeep Rana, Advocate,
for the respondents.

JASGURPREET SINGH PURI, J. (ORAL)

1. The present writ petition has been filed under Articles 226/227 of the Constitution of India for issuance of a writ for direction to the respondents to reimburse the medical bill of the petitioner on PGI rates + 75% of balance amount of ventilator charges, procedure charges, OT charges, Anesthesia charges, ICU charges, Room Rent, Physiotherapy visit charges etc. and to direct the respondents to reimburse the remaining amount of medical bills to the petitioner as vide orders dated 22.03.2017 (Annexure P-3) and 22.05.2017 (Annexure P-5) Rs.50,341/- and Rs.65,150/- have only been sanctioned against the total amount of Rs.1,15,378/- and Rs.2,59,934/-.
2. Learned Legal Aid Counsel appearing for the petitioner submitted that the petitioner was working as Junior Engineer in the respondent-Nigam and he retired in the year 2010. However, on 07.10.2016,

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he was admitted in an emergency condition in the hospital, namely, Aarvy Hospital due to breathing difficulty @ gen weakness-appetite-severe insp. Discern, attend sensorium plus patient is a k/c/o COPD-H/o Exp. Laprotomy-Colostomy and he was immediately given oxygen support and was treated conservatively, regarding which, an Emergency Certificate of the concerned hospital is annexed with the present petition as Annexure P-2 (Colly.). The petitioner again suffered similar problem on the next day i.e. on 08.10.2016 and was again admitted in the same hospital with the same symptoms and was immediately put to Bipap support and was again treated conservatively. She also submitted that for the aforesaid treatment, the petitioner had submitted the medical bills of an amounting to Rs.1,15,378/- to the respondents, out of which, the respondents-Nigam had paid only Rs.50,341/-. Thereafter, the petitioner was again admitted in the aforesaid hospital in an emergency condition on 04.01.2017 and an Emergency Certificate was issued by the hospital is annexed with the present petition as Annexure P-4 and this time he was admitted on emergency basis because of high grade temper chills, retraction of colostomy inside abd. distention, severe pain abd., recumbent episode of vomiting c-tend men in abd. and regarding this treatment, the petitioner had submitted the medical bills for an amount of Rs.2,59,936/-, out of which, only Rs.65,150/- has been paid to him.

3. Learned Legal Aid Counsel further submitted that once the petitioner was admitted in a hospital which was not an empanelled hospital in an emergent condition, then he should have been granted full medical reimbursement instead of partial medical reimbursement because at that time



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he had no choice except to approach the nearest best hospital in order to save his life. She also referred to a Division Bench judgment of this Court in *CWP-3586-2007* titled as “*Raghuvir Prasad Mittal Vs. State of Haryana and others*” decided on 04.04.2008 and also a judgment passed by this Court in *CWP-19105-2021* titled as “*Roshan Lal Garg Vs. State of Haryana and others*” decided on 08.07.2024 and also the judgment passed by Hon’ble Supreme Court in “*Shiva Kant Jha Vs. Union of India*”, (2018) 16 SCC 187 in this regard.

4. On the other hand, Mr. Nayandeep Rana, learned counsel appearing on behalf of the respondents-Nigam submitted that although the petitioner was admitted in an emergent condition for two times but at the time when the bills were submitted by the petitioner, he had submitted the entire bills for medical reimbursement but as per the Instructions of the Nigam, when an employee is admitted in an unapproved hospital but in an emergency condition then the reimbursement shall be paid at the rates equivalent to the PGI, Chandigarh rates which the department has already reimbursed to the petitioner and therefore, the petitioner is not entitled for full medical reimbursement. He also supplied a photocopy of the aforesaid Instructions of the Nigam in Court today, which are taken on record and marked ‘X’.

5. I have heard the learned counsel for the parties.

6. The only issue involved in the present case is as to whether the petitioner is entitled for the medical reimbursement equivalent to PGI, Chandigarh rates or full reimbursement. Before considering the facts of the instant case, it is necessary to refer to various judgments in this regard.



Hon'ble Supreme Court in *Shiva Kant Jha's case (supra)* dealt with this issue as to whether the full medical reimbursement should be granted to a patient, who is admitted in an non-empanelled hospital in an emergency condition or not. The relevant para of the aforesaid judgment 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.

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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.”

7. A Co-ordinate Bench of this Court in ***CWP-14577-2008*** titled as ***“Sanjay Rana Vs. State of Haryana through the Financial Commissioner & Secretary to Government of Haryana, Health Department, Haryana and others”*** also while referring to the aforesaid judgment of Hon’ble Supreme Court in ***Shiva Kant Jha’s case (supra)***, granted the full medical reimbursement to the employee of that case. This Court had also an occasion to deal with the aforesaid proposition in ***CWP-10669-2017*** titled as ***“Raghubir Singh Vs. Chief Administrator and others”*** and ***Roshan Lal Garg’s case (Supra)*** whereby this Court while referring to the aforesaid judgment of Hon’ble Supreme Court in ***Shiva Kant Jha’s case (Supra)*** was of the view that when an employee is in an extreme emergent situation, then he will never see as to which hospital is an approved hospital or which is an unapproved hospital because the main focus and emphasis is always to save his life or his dependent’s life and not to think about the fact that whether full medical reimbursement will be given to him or not because



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the impetus is only on saving the life or relieving from the pain. This Court was also of the view in the aforesaid judgments that non-payment of full medical reimbursement when it was a case of an extreme emergency, would be violative of Article 21 of the Constitution of India. Similar instructions were also relied upon by the Nigam in the aforesaid judgments as well.

8. Now coming to the facts of the present case, it is not disputed by the Nigam that the petitioner was not admitted for 2-3 times in an emergency condition. Rather a perusal of the Emergency Certificates (Annexures P-2-Colly. & P-4) would show that the petitioner was actually admitted in an emergent medical condition, regarding which, the aforesaid certificates have also been attached with the present petition. No doubt as per the Instructions, if a patient is admitted in a non-empanelled hospital but in an emergency condition, then only amount equivalent to the PGI, Chandigarh rates will be given to him but in the light of the aforesaid judgment of Hon'ble Supreme Court and also in the light of the judgment of the Co-ordinate Bench of this Court and also of this Court, the petitioner will be entitled for full medical reimbursement.

9. During the course of arguments, learned counsel for the respondents-Nigam has also referred to a judgment passed by a Division Bench of this Court in "*Gurnam Singh Mann Vs. Punjab Agricultural University, Ludhiana and others*", 2006(1) SLR 561 and submitted that reimbursement can be made only to the extent of PGI, Chandigarh rates when the hospital is a non-empanelled hospital. However, a perusal of the aforesaid judgment would show that it has been so observed that rather in such like situation at least the reimbursement of the medical expenses at the



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rates prevalent for the treatment at PGI, Chandigarh is to be given but there is no observation to the extent that only PGI rates are to be given. Therefore, this Court will be guided by the law laid down by Hon’ble Supreme Court in *Shiva Kant Jha’s case (Supra)* and the aforesaid judgment of Division Bench of this Court would be distinguishable on facts.

10. In view of the aforesaid facts and circumstances, the present petition is allowed. The petitioner shall be entitled to full medical reimbursement. The respondents are directed to pay full medical reimbursement to the petitioner after adjusting what has already been paid and what has been due to him based upon the actual bills within a period of four months from today. However, there shall be no order as to interest on aforesaid payment of remaining medical bills.

02.08.2024

(JASGURPREET SINGH PURI)
JUDGE

Bhumika

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| 1. Whether speaking/reasoned: | Yes/No |
| 2. Whether reportable: | Yes/No |