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

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CWP-19427-2016 (O&M)
Date of Decision: 07.11.2024

Mahabir Singh

..... Petitioner

Versus

State of Haryana and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Ms. Malkit Kaur, Advocate,
for the petitioner.

Mr. Gaurav Jindal, Addl. AG, Haryana.

Mr. Kuldip Singh, Advocate,
for respondent No.2.

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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 especially in the nature of *certiorari* for quashing the order/letter No.ESTA/8266 dated 21.03.2016 (Annexure P-6) whereby the claim of the petitioner i.e. the reimbursement of the medical expenses incurred by the petitioner on his treatment from 20.02.2015 to 24.02.2015 has been wrongly rejected by the respondent and also to direct the respondents to reimburse the actual medical expenses of Rs.69,325/- along with interest @ 18% p.a. (simple).

2. Learned counsel for the petitioner submitted that the petitioner was working as a Clerk in respondent No.2-Bank and while he was in

service, he developed pain in the abdominal area and on 20.02.2015 his wife got him admitted in the Indraprastha Apollo Hospital, Delhi in an emergency condition. She further submitted that the petitioner remained in the hospital from 20.02.2015 till 24.02.2015 and in this regard a medical bill of Rs.69,325/- was submitted to the respondent-Bank for the purpose of medical reimbursement in accordance with the Policy of the Government but nothing has been paid to the petitioner in this regard. She also submitted that it is a categorical case of the petitioner that he was having severe pain in the abdomen and as per Para 3 of the petition, the petitioner fell unconscious and was rushed to Indraprastha Apollo Hospital, Delhi by his wife and thereafter, he got admitted in an emergency condition. She further submitted that when the aforesaid bill was presented before the respondent-Bank, they rejected the claim of the petitioner for grant of medical reimbursement by passing the impugned order dated 21.03.2016 (Annexure P-6) on the sole ground that the petitioner got treatment from the hospital which was not included in the list of approved hospitals for treatment of employees of the Haryana Government. She also submitted that the aforesaid reason itself, which is the sole reason cannot become a ground for rejection of the medical reimbursement of the petitioner because as per Annexure A-1, which has been attached along with the reply filed by the State of Haryana, a letter was issued by the Registrar, Cooperative Societies, Haryana to the Managing Director of all the Central Cooperative Banks wherein it has been so provided that all the bills exceeding Rs.10,000/- pertaining to the category to which the petitioner belongs shall be passed by the Board and the reimbursement must be strictly in accordance with the instructions of the

State Government issued from time to time.

3. Learned counsel for the petitioner referred to instructions issued by the State of Haryana which have also been appended along with the present petition as Annexure P-7 and submitted that as per the aforesaid Instructions, whenever an employee gets treatment from a Government Hospital then full reimbursement is to be granted and when the treatment is got done from the approved hospital, then the medical reimbursement equivalent to the PGI rates is to be granted. Still further there is a provision under Clause (4) that in case the treatment is taken in an emergency condition from an unapproved hospital then the same will also be allowed and reimbursement will be made at PGI rates with the approval of the Finance Department. She further submitted that a perusal of the impugned order would show that the claim of the petitioner has not been rejected on the ground that the petitioner has not taken the treatment in an emergency condition but it was on the sole ground that the petitioner has taken treatment from an unapproved hospital whereas as per the Policy of the Government, even if the treatment is taken from an unapproved hospital, the medical reimbursement is to be granted at PGI rates and therefore, the petitioner is entitled for grant of medical reimbursement at least on the PGI rates.

4. On the other hand, Mr. Kuldip Singh, learned counsel appearing on behalf of respondent No.2-Bank submitted that the present petition is not maintainable in view of the fact that respondent No.2-Bank is not an instrumentality of the State and therefore, the present petition will not lie. He further submitted that there is also a remedy of filing an appeal available to

the petitioner against the aforesaid impugned order. He further submitted that since the petitioner did not take treatment from an approved hospital or Government Hospital, he is not entitled for medical reimbursement. He also submitted that the petitioner did not get the treatment in an emergency condition.

5. Mr. Gaurav Jindal, learned Addl. AG, Haryana submitted that so far as the State is concerned, they have also filed an affidavit to state that in pursuance of Rule 20 of the Haryana State Central Cooperative Banks Staff Service (Common Cadre) Rules, 1975 for the reimbursement of the medical bills of the employees of the Central Cooperative Banks, a letter vide Annexure A-1 has been issued.

6. I have heard the learned counsels for the parties.

7. The issue involved in the present case is with regard to whether the petitioner would be entitled for grant of medical reimbursement from respondent No.2-Bank or not. First of all, the preliminary objections which have been taken by respondent No.2-Bank that the present petition is not maintainable is concerned, this Court is of the considered view that the prayer made in the present petition is for grant of medical reimbursement. The reason for taking the reimbursement was that the petitioner got the treatment in an emergency condition from a hospital when he developed severe pain in the abdominal area and it was a medical problem which was treated by the Indraprastha Apollo Hospital, Delhi. This aspect touches the provisions of Article 21 of the Constitution of India and therefore, this Court is of the considered view that in such like situation, such preliminary objection will not be sustainable and therefore, it is rejected. So far as the

second preliminary objection taken by respondent No.2-Bank that the remedy of appeal is available, the same is also not sustainable in view of the fact that as per the Rule 31.3 which has been reproduced in Para No.8 of the reply, an appeal would lie against the order of Managing Director whereas the impugned order dated 21.03.2016 (Annexure P-6) has been passed by the General Manager. However, in this regard, learned counsel for respondent No.2-Bank has stated that the nomenclature of General Manager and Managing Director is the same. Be that as it may, this Court is of the considered view that the petitioner, who is claiming medical reimbursement only for an amount of Rs.69,325/- should not be relegated to alternative remedy. Therefore, this preliminary objection of the respondent No.2-Bank is also rejected.

8. So far as the admissibility for grant of medical reimbursement to the petitioner is concerned, it is an admitted position that the petitioner was in service and was working in the respondent No.2-Bank at the time when he took treatment from the Indraprastha Apollo Hospital, Delhi from 20.02.2015 to 24.02.2015. A perusal of the letter (Annexure A-1) which has been attached with the reply filed by the State of Haryana would show that for all the bills which are more than Rs.10,000/-, the sanction is to be given by the Board and it has been clearly provided in Annexure A-1 that the reimbursement has to be made strictly in accordance with the instructions issued by the State Government from time to time. The instructions has also been attached as Annexure P-7. A perusal of the same would show that full medical reimbursement will be allowed when the treatment is taken from Government Hospitals in the State of Haryana, U.T., Chandigarh (i.e. PGI

Chandigarh, General Hospital, Sector-16, Medical College, Sector 32 and Dispensaries etc.) and also from AIIMS, New Delhi. So far as the treatment taken from an approved hospital is concerned, the rate of reimbursement which is being provided is equivalent to PGI rates. However, when the treatment is taken from non-affiliated/unapproved hospital, then the same is also to be allowed on PGI rates if the patient is taken to the hospital on emergency basis. Therefore, the only issue involved in the present case would be as to whether the petitioner was taken to the hospital in an emergency condition or not.

9. During the course of arguments, learned counsel for the petitioner has referred to Para No.3 of the petition whereby specifically it was stated and averred that it was due to severe pain in abdominal area, the petitioner fell unconscious and was rushed to Indraprastha Apollo Hospital, Delhi by his wife and was admitted in an emergency condition.

10. However, on the other hand, learned counsel for respondent No.2-Bank has referred to the representation (Annexure P-5) wherein the petitioner stated that he was carried to New Delhi in emergency and got examined in Indraprastha Apollo Hospital, New Delhi and submitted that there is a material discrepency between the averment made in the writ petition and the aforesaid representation. This Court is of the considered view that such kind of discrepency in the averments made in the writ petition and in the representation would not be fatal to the petitioner. Although there is no certificate attached by any official of any Government Hospital or the other hospital but a perusal of the impugned order by which the claim of the petitioner was rejected i.e. Annexure P-6 would make the things clear. The

aforesaid impugned order (Annexure P-6) is reproduced as under:-

> "***Annexure P-6***
>
> *The Jind Central Cooperative Bank Ltd, Jind*
> *Head Office* *Dated 21.3.2016*
> *Serial No./Estay/8266*
> *Sh. Mahvir Singh Secretary,*
> *House No.2450*
> *Urban Estate Jind.*
>
> *Subject- Regarding Rejection of Reimbursement of Medial Bills.*
>
> *As per your treatment from Apollo Hospital, Delhi from 20.02.2015 to 24.2.2015 your medical bill of Rs.69325/- was sent to this office alongwith a notice for reimbursement which was received in this office on 30.12.2015. Regarding this office letter no/Estay/5063 dated 2.11.2015 was sent back to you by saying that above mentioned hospital was not in the affiliated list of Haryana Government on dated 20.2.2015 for treatment of govt. Employees. Therefore by sending back original bill it is informed to you that reimbursement of medical bill of Rs.69325/- cannot be granted and notice sent by you is filed.*
>
> *Sd/-*
> *Annexed-Original Medical Bill* *General Manger*"

11. A perusal of the same would show that the claim of the petitioner has been rejected on the sole ground that he has not taken treatment from an approved/affiliated hospital. However, there is nothing to suggest in the aforesaid impugned order that the claim of the petitioner has been declined on the ground that even if the petitioner has taken treatment from an unapproved hospital, whether he was taken there in an emergency condition or not. Therefore, clearly a presumption would arise that the petitioner had taken the treatment in an emergency condition. In the absence

of any reason given in the aforesaid impugned order (Annexure P-6), pertaining to the emergency, the claim of the petitioner cannot be declined on the aforesaid ground.

12. In view of the aforesaid facts and circumstances of the present case, the present petition is allowed. The petitioner shall be entitled for grant of medical reimbursement for the aforesaid period i.e. from 20.02.2015 to 24.02.2015 at the PGI rates as per Clause-4 of the New Reimbursement Policy. Respondent No.2-Bank is directed to calculate the same and pay to the petitioner within a period of two months from today along with interest @ 6% (simple) per annum.

07.11.2024 **(JASGURPREET SINGH PURI)**
Bhumika **JUDGE**

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