

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

(208)

CWP-24898-2016

Date of Decision : March 04, 2024

Roshan Lal**.. Petitioner****Versus****State of Haryana and others****.. Respondents****CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI**

Present: Mr. S.K. Verma, Advocate, for the petitioner.

Ms. Vibha Tewari, AAG, Haryana.

HARSIMRAN SINGH SETHI J. (ORAL)

1. In the present writ petition, the grievance of the petitioner is that father of the petitioner had undertaken medical treatment in Medi City, Multi-specialty Hospital and Neuro Care Center, Hisar and in Sarvodaya Multi specialty Hospital, Hisar, reimbursement of which was sought but the respondents have declined the claim of the petitioner vide order dated 06.01.2016 (Annexure P-5) and that too without any valid justification.

2. Learned counsel for the petitioner argues that by a totally cryptic and non-speaking order, the medical bills submitted by the petitioner for reimbursement have been returned vide letter dated 06.01.2016, a copy of which has been appended with this petition as Annexure P-5, which is totally arbitrary and illegal. Learned counsel for the petitioner submits that as the father of the petitioner was dependent upon the petitioner, the

respondents are under an obligation to reimburse the medical bills in respect of the treatment undertaken by the father of the petitioner.

3. Learned counsel for the respondents submits that as the father of the petitioner was having his own income hence, cannot be treated as a dependent and therefore, vide order dated 06.01.2016 (Annexure P-5), the medical bills submitted by the petitioner have been returned.

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

5. It is a settled principle of law that whenever a claim is raised, the same needs to be adjudicated by the Department by passing appropriate speaking order even while performing the executive function. Due reason for arriving at a conclusion has to be mentioned in the order so that the concerned employee should know as to what weighed with the mind of the authorities concerned either to accept or to reject the claim. The law on this issue is settled by the Hon'ble Supreme Court of India in Civil Appeal No.457 of 1970 titled as '**Mahabir Prasad Santosh Kumar v. State of U.P. and others**', decided on 02.04.1970. Relevant paragraphs of the said judgment are as under:-

"5. The case discloses a disturbing state of affairs. The authorities have disclosed by their conduct a reckless disregard of the rights of the appellants. The order passed by the District Magistrate cancelling the licences was quasi-judicial; it could be made only on a consideration of the charges and the explanation given by the appellants. That necessarily implied that the District Magistrate had to give some reasons why he held the charges proved, and the explanation unacceptable. When the matter was carried in

appeal, the State Government could at least have acted with some awareness that citizens have rights which must be protected against possible arbitrary action by subordinate officials. The District Magistrate is not made the final authority in cancelling the licence. The appellants had a right to carry on their business, and as they held a licence to carry on their business they could be deprived of their right by an executive order supported by good and adequate reasons. The relevant rules granted a right of appeal to the State Government against that order, and that implied that the aggrieved party must have an opportunity to convince the State Government that the order passed by District Magistrate was erroneous. That right could be effectively exercised if reasons be recorded by the District Magistrate and supplied to the aggrieved party. If the aggrieved party is not supplied the reasons, the right to appeal is an empty formality.

6. *From the materials on the record it cannot be determined as to who considered the appeal addressed to the State Government, and what was considered by the authority exercising power on behalf of the State Government. The practice of the executive authority dismissing statutory appeals against orders which prima facie seriously prejudice the rights of the aggrieved party without giving reasons is a negation of the rule of law. This Court had occasion to protest against this practice in several decisions : See Madhya Pradesh Industries Ltd. v. Union of India, (1966)1 SCR 466 (per Subba Rao, J.); Bhagat Raja v. Union of India, (1967)3 SCR 302; State of*

Madhya Pradesh v. Narsinghadas Jankidas Mehta, C.A. No. 681 of 1966, decided on 29-4-1969(SC); State of Gujarat v. Patel Raghav Nath, C.A. No. 723 of 1966, decided on 21-4-1969 and Prag Das Umar Vaishya v. Union India, C.A. No. 657 of 1965, decided on 17-8-1967 (SC). The power of the District Magistrate was quasi-judicial : exercise of the power of the State Government was subject to the supervisory power of the High Court under Article 227 of the Constitution and of the appellate power of this Court under Article 136 of the Constitution. The High Court and this Court would be placed under a great disadvantage if no reasons are given, and the appeal is dismissed without recording and communicating any reasons".

6. A bare perusal of the order dated 06.01.2016 (Annexure P-5) would show that not even a single reason has been given for rejecting the claim of the petitioner hence, order dated 06.01.2016 (Annexure P-5) cannot be treated as a valid order so as to decline the claim of the petitioner for medical reimbursement.

7. Learned counsel for the respondents submits that reply has been given wherein due reasons have been given for rejecting the claim of the petitioner.

8. It may be noticed that as per the settled principle of law settled by the Hon'ble Supreme Court of India in ***Civil Appeal No.1297 of 1977 titled as Mohinder Singh Gill and another vs. The Chief Election Commissioner, New Delhi and others, decided on 02.12.1997***, it has been held that an affidavit or a reply cannot be a substitute to the order and any reason given in the reply or the affidavit cannot be treated as valid reason

for accepting or rejecting the claim. The relevant paragraph 8 of the said judgment is as under:-

“ 8. The second equally relevant matter is that when a statutory functionary makes an order based on certain grounds, its validity must be judged by the reasons so mentioned and cannot be supplemented by fresh reasons in the shape of affidavit or otherwise. Otherwise, an order bad in the beginning may, by the time it comes to court on account of a challenge, get validated by additional grounds later brought out. We may here draw attention to the observations of Bose J. in Gordhandas Bhanji case:

(1) "Public orders, publicly made, in exercise of a statutory authority cannot be construed in the light of explanations subsequently given by the officer making the order of what he meant, or of what was in his mind, or what he intended to do. Public orders made by public authorities are meant to have public effect and are intended to effect the acting and conduct of those to whom they are addressed and must be construed objectively with reference to the language used in the order itself."

Orders are not like old wine becoming better as they grow older.”

9. Keeping in view the above, the impugned order dated 06.01.2016 (Annexure P-5) is set aside. The case is remanded back to the authorities concerned to pass an appropriate speaking order qua the claim of

the petitioner for the medical reimbursement. It may be noticed that the judgment in *CWP No.10937 of 2007 titled as Smt. Usha Kumari vs. State of Punjab and others decided on 20.05.2008* be kept in mind while passing the fresh order.

10. The present writ petition is allowed in above terms.

March 04, 2024
harsha

(HARSIMRAN SINGH SETHI)
JUDGE

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