

252

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-26075-2016 (O&M)
Date of decision: 27.02.2024

MANI RAM

...Petitioner

VERSUS

DAKSHIN HARYANA BIJLI VITRAN NIGAM LTD AND ORS.

...Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- Mr. Vikram Sheoran, Advocate for the petitioner.

Mr. Abhishek Arora, Advocate for
Mr. Sumit Jain, 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 seeking issuance of a writ in the nature of *certiorari* for quashing the impugned orders dated 05.03.2016 (Annexure P-6), dated 30.03.2016 (Annexure P-7) and dated 15.07.2016 (Annexure P-11), whereby the claim of the petitioner for medical reimbursement has been rejected and further to issue a writ in the nature of *mandamus* directing the respondents to reimburse the medical bills of the petitioner to the tune of Rs.3,40,663/- along with interest @ 18% per annum from the date of submission of medical bills till the date of realization.

2. Learned counsel for the petitioner submitted that the petitioner is working as a Bill Distributor in the respondent-Nigam and while he was in service, he took medical leave because of acute viral fever with effect from 18.05.2015 to 25.05.2015 and the medical leave was sanctioned by the

concerned authorities. He further submitted that suddenly the petitioner fell unconscious on 29.05.2015 after having acute breathing problem and since at that point of time he was at the residence of his sister at Delhi, his sister got him admitted in Vinayak Hospital, Delhi in emergency condition on 29.05.2015. He further submitted that thereafter, the Doctors treated the petitioner and he was discharged on 08.06.2015 on the advice of the Doctor and the certificate issued by the Doctor has also been attached as Annexure P-2. He also submitted that thereafter the petitioner again started having acute breathing problem pertaining to lungs disorder and this time, he was taken by his sister to Mata Chanan Devi Hospital, New Delhi in emergency condition and he was treated for ARDS with Type I Respiratory Failure due to Adult Respiratory Distress Syndrome and he remained admitted in the said hospital from 09.06.2015 to 25.06.2015 and thereafter, again from 04.07.2015 to 23.07.2015 because of the aforesaid acute respiratory distress. He further submitted that the discharge summaries of the Mata Chanan Devi Hospital, New Delhi with regard to both the aforesaid periods are already on the record as Annexure P-13 and Annexure P-14 and the bill of Vinayak Hospital, Delhi has been attached as Annexure P-12 with the replication. He further submitted that as per the Policy and Guidelines of the respondent-Nigam, in case an employee is admitted to an empanelled hospital, then he is entitled for full reimbursement but in case he gets admitted in a non-empanelled hospital but in an emergency condition, then the employee is entitled for medical reimbursement on the basis of PGI/AIIMS rates. He further submitted that both the aforesaid hospitals are not empanelled hospitals but since the petitioner was admitted in both the hospitals in an emergency condition in order to save his life and initially when he was admitted in Vinayak Hospital, Delhi, he fell unconscious and his sister had taken him to the aforesaid

hospital, then the petitioner was entitled for medical reimbursement for the aforesaid periods on PGI/AIIMS rates in accordance with the Policy of the respondent-Nigam, to which they have rejected vide order Annexure P-6, in which it has been so stated that the petitioner has taken treatment from the Private Hospital not approved by the State Government/Nigam with an additional objection raised that the petitioner has not submitted the requisite certificates countersigned by the Medical Superintendent of the concerned Hospital.

3. On the other hand, learned counsel appearing on behalf of the respondents submitted that as per Annexure P-6, the claim of the petitioner has been rejected on the aforesaid two grounds. Firstly, the petitioner got treatment from Private Hospitals, which are not approved by the State Government/Nigam and he was not covered in the ambit of emergency and therefore, he could not have been granted the medical reimbursement and secondly, the petitioner did not supply the certificates duly attested by the Medical Superintendent of the concerned Hospitals.

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

5. As per the learned counsel for the parties, the respondent-Nigam gives full medical reimbursement to those employees who get their treatment from empanelled hospitals and in case the hospital is not empanelled, then respondent-Nigam would pay to the employee medical reimbursement only to a limited extent based upon the PGI/AIIMS rates. In the present case, admittedly both the aforesaid hospitals from where the petitioner had taken treatment were not empanelled hospitals. The first reason which has been stated in aforesaid Annexure P-6 and as so argued by the learned counsel appearing on behalf of the respondents for declining of the medical reimbursement to the petitioner

was that the bills etc. were not countersigned by the Medical Superintendent of the concerned Hospitals. However, a perusal of the certificate issued by Vinayak Hospital, Delhi Annexure P-2 would show that it is signed by a Doctor and the remaining certificates/discharge summaries are also signed by the respective Doctors. It may be possible that the respective Private Hospitals may not be having Doctors of the designation of Medical Superintendent but the genuineness of the aforesaid certificates has not been disputed by the respondent-Nigam and therefore, the petitioner could not have been non-suited only on the aforesaid ground. So far as the second issue raised by learned counsel appearing on behalf of the respondents based upon Annexure P-6 was that the petitioner was not admitted in the state of emergency and therefore, he was not entitled for any reimbursement is concerned, the same is also not sustainable in view of the fact that it is clear from Annexure P-2, which is a certificate issued by Vinayak Hospital, Delhi in which it has been specifically stated that the petitioner was admitted to Vinayak Hospital, Delhi on 29.05.2015 as an emergency care due to breathlessness. As per Annexure P-3, which is a certificate issued by Mata Chanan Devi Hospital, New Delhi, it has been specifically stated that the petitioner was admitted in the aforesaid hospital in an emergency and even the subject matter of the aforesaid certificate is the emergency certificate and the same is the position of Annexure P-4, which is also a certificate issue by Mata Chanan Devi Hospital, New Delhi. A perusal of discharge summaries (Annexure P-13 and Annexure P-14) of Mata Chanan Devi Hospital, New Delhi would also make it clear that the petitioner was actually having respiratory disorders and which has been diagnosed as ARDS with Type I Respiratory Failure with Leucopenia and medicines and tests have also been stated in the aforesaid discharge summaries.

6. Apart from the above, a perusal of aforesaid orders Annexure P-6 and Annexure P-7 by which the petitioner was declined the medical reimbursement on the ground that he was not covered in the ambit of emergency would show that there is nothing on the record to show as to on what basis and on what material the respondent-Nigam has come to a conclusion that the petitioner was not taken in the state of emergency. Had it been a case that the respondent-Nigam had inquired into the matter in any manner whatsoever and thereafter, have come to a definite conclusion that the petitioner was not admitted in the emergency condition, then it would have been a different position but by simply stating that the petitioner was not admitted in emergency condition will not suffice. In the absence of any material on the record by the respondent-Nigam to show that as to how the petitioner was not admitted in emergency condition, this Court would therefore lend credence to the certificates which have been issued by the aforesaid Hospitals in which it has been repeatedly and specifically stated that the petitioner was in a medical care of breathlessness.

7. In view of the aforesaid facts and circumstances, the present writ petition is allowed. The impugned orders dated 05.03.2016 (Annexure P-6) and dated 30.03.2016 (Annexure P-7) are hereby set aside. The respondent-Nigam is directed to pay medical reimbursement to the petitioner on PGI/AIIMS rates in accordance with their own Policy, within a period of three months from today, along with interest @ 6% per annum (simple).

(JASGURPREET SINGH PURI)
JUDGE

27.02.2024
Chetan Thakur

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