

216
IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-5661-2016(O&M)
Date of decision: 20.03.2024

Genda Devi

...Petitioner

VERSUS

Haryana Vidyut Prasaran Nigam Ltd. and another

...Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- Mr. Onkar Rai, Advocate, for the petitioner.

Ms. Aditi Sharma, Advocate, for
Mr. C.S. Bakshi, 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 order dated 24.12.2015 (Annexure P-5) passed by respondent No.1 vide which he has refused to release the payment of medical reimbursement bill of Rs. 1,89,293/-.

2. The brief facts of the present case are that the husband of the petitioner was working as a Junior Engineer in the respondent-Nigam and he was suffering from cancer i.e. carcinoma floor of mouth. He was admitted in Batra Hospital & Medical Research Centre, New Delhi on 16.11.2014 from where he was operated upon and kept on ventilator as well, as per discharge summary and his condition did not improve and he was discharged from the

hospital on 24.11.2014. Ultimately, he died on 12.04.2015 i.e. within a period of five months and his death certificate is attached as Annexure P-1.

3. The present petitioner who is the widow of the aforesaid Junior Engineer namely, Devi Sahai submitted the medical reimbursement bills to the respondent-Nigam to the tune of Rs. 1,89,293/- vide Annexure P-2. She was not granted any medical reimbursement and thereafter, the present writ petition has been filed. However, during the pendency of the present petition, an amount of Rs. 56,058/- has been paid to the petitioner vide cheque dated 11.06.2020.

4. Learned counsel appearing on behalf of the petitioner submitted that it is a case where the husband of the petitioner was suffering from acute cancer and had to undergo surgery for Squamous Cell Carcinoma and he was admitted in Batra Hospital & Medical Research Centre, New Delhi for the aforesaid purpose where the aforesaid surgery was conducted and he was discharged on 24.11.2014 but his health did not improve and he passed away within a period of five months. He submitted that the petitioner who is a widow has submitted the bills but the respondent-Nigam did not pay even single penny but during the pendency of the present petition an amount of Rs. 56,058/- has been paid in view of the order passed by this Court on 23.10.2018. He submitted that the impugned order (Annexure P-5) by which the medical bill has been declined/returned back to the petitioner is not only illegal but also against the policy of the respondent-Nigam. He submitted that as per aforesaid impugned order, it was returned on the basis of the comments of the Head Office that the medical bill submitted by the petitioner cannot be countersigned because patient has undergone elective surgery for squamous cell carcinoma. The relevant portion of the aforesaid order is reproduced as under:-

“The Medical Bill submitted by Gaimda Devi w/o of Devi Sahai, JE/Retd. cannot be countersigned because patient has undergone elective surgery for squamous cell carcinoma.”

5. Learned counsel submitted that firstly, it was not a case of an elective surgery because the husband of the petitioner was at his last stage of cancer and surgery was not an option but it was a compulsory surgery and a compulsory surgery is totally opposite to that of an elective surgery regarding which the husband of the petitioner was got admitted and was put on ventilator, as per discharge summary and thereafter, he was discharged on 24.11.2014 but since his condition did not improve, he died within a period of five months on 12.04.2015.

6. Learned counsel also submitted that even otherwise also, even if assumingly for the sake of arguments it was a case of an elective surgery still it does not become a ground for rejection of medical reimbursement bills. To substantiate his arguments, he submitted that the aforesaid Batra Hospital & Medical Research Centre is a listed approved hospital in the State of Haryana as per schedule attached to the policy Annexure P-6 and although it comes under the heading of kidney transplant but it is an empanelled hospital and no such discrimination can be made with regard to the nature of the surgery once the hospital itself is an approved hospital. He further submitted that 2-3 times objections were raised by the head office on non-existing grounds and nothing was paid to the petitioner and being a widow, she suffered a lot because of inaction on the part of the respondent-Nigam. He further submitted that once the husband of the petitioner was admitted in the hospital and was operated for cancer and he died within a period of five months after discharge, it cannot be said that it was not a case of emergency for the husband of the petitioner. He

also submitted that however during the pendency of the present petition, the petitioner has been paid an amount of Rs. 56,058/- but the entire amount has not been paid to the petitioner.

7. On the other hand, learned counsel appearing on behalf of the respondent-Nigam submitted that as per the policy regarding medical reimbursement (Annexure R-7) it has been so provided in para No.5 that the criteria for taking treatment in emergency would be based on any medical assistance necessitated on account of accident while the employee was in transit from/to his place of residence and/or his life was endangered for want of immediate treatment but for prolonged treatment, the employee will have to move to the nearest Government Hospital. The aforesaid para No.5 is reproduced as under:-

“The criteria for taking treatment in emergency would be based on any medical assistance necessitated on account of accident while the employee was in transit from/to his place of residence and/or his life was endangered for want of immediate treatment. However, for prolonged treatment, the employee will have to move to the nearest Government Hospital.

8. Learned counsel while referring to the aforesaid para submitted that since it was a case of a prolonged treatment, the husband of the petitioner was required to move to the nearest Government Hospital but since he has taken treatment from a private hospital, he is not entitled for the grant of medical reimbursement.

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

10. The facts of the present case are straight. Husband of the petitioner was admittedly suffering from cancer and he got admitted himself in Batra Hospital & Medical Research Centre which is an empanelled hospital, as per

Annexure P-6. He was admitted on 16.11.2014 and got operated and discharged on 24.11.2014 and died on 12.04.2015 within a period of five months thereafter. An argument has been raised by the learned counsel for the respondent-Nigam while referring to para No.5 as reproduced above that for prolonged treatment, the employee has to move to the nearest Government Hospital. However, in the first part of the aforesaid para No.5, it is so provided that the criteria for taking treatment in emergency would be based upon the medical assistance in those cases as well where the life is endangered for want of immediate treatment. The husband of the petitioner was admitted in Batra Hospital for his surgery for cancer and soon after he died. This Court is of the view that what else can be an emergency to come within the scope of life being endangered for immediate treatment than the present case. The facts speak for themselves. The husband of the petitioner rather died after discharge from the hospital and he was operated for cancer in Batra Hospital and therefore, the argument raised by the learned counsel for the respondent-Nigam based upon the aforesaid Annexure R-7 cannot be sustained.

11. A perusal of the impugned order (Annexure P-5) would show that the bills were returned by the respondent-Nigam on the ground that the husband of the petitioner had undergone elective surgery for squamous cell carcinoma. The aforesaid reason is also not only perverse but it appears to have been without application of mind and is insensitive in nature. There can be no reason for non-suiting a patient on the ground that he has undergone an elective surgery for cancer. In the facts and circumstances of the present case, the husband of the petitioner was admitted in an approved hospital, got operated, discharged and thereafter soon after he died and therefore, there was no question of surgery being an elective surgery and rather this Court is of the

view that considering the facts and circumstances of the present case, it was a compulsory surgery. Such kind of reasoning given in the impugned order and that too by the Managing Director is deprecated being insensitive to human life, besides being contrary to their own policy.

12. A perusal of the written statement filed by the respondent-Nigam would show that number of times the case file of the bills was sent to head office and number of times various objections were raised by the head office which on face of it are totally frivolous objections. In the first objection it was so stated that in private/unapproved hospitals only indoor treatment is allowed and the petitioner was asked to submit only indoor treatment for consideration, whereas in the present case the husband of the petitioner was admitted in the hospital and in this way, the file got delayed because of the aforesaid frivolous objection. Thereafter, again an objection was raised that the petitioner has not supplied the Emergency Certificate of the hospital and has not submitted the request application regarding reason as to why treatment was taken from a private/unapproved hospital, whereas a perusal of Annexure R-7 would show that Batra Hospital was an approved hospital. There is nothing in the written statement or anything on the record to show that Batra Hospital was not an approved hospital. Therefore, this second objection was also a frivolous objection. Thereafter, again for the third time an objection was raised by the head office that the medical bills of the petitioner cannot be countersigned because the husband of the petitioner had gone for an elective surgery for squamous carcinoma and this was the reason on the basis of which impugned order (Annexure P-5) was passed and this objection was also absolutely frivolous.

13. The petitioner is a widow and her husband died because of cancer in the year 2015. The petitioner has been denied the medical reimbursement due to non-existent reasons as aforesaid. In the year 2015, a poor widow not only lost her husband but also had to face financial difficulties, apart from facing the frivolous objections of the respondent-Nigam time and again. The approach of the respondent-Nigam is absolutely insensitive and perverse in nature.

14. Consequently, the present petition is allowed. The impugned order dated 24.12.2015 (Annexure P-5) is hereby set aside. The respondent-Nigam is directed to pay the balance amount of the medical reimbursement bills i.e. Rs. 1,33,235/- alongwith interest @ 6% per annum (simple) within a period of two months from today. In case the aforesaid amount is not paid to the petitioner within the aforesaid period of two months, then the petitioner shall be entitled for future rate of interest @ 9% per annum (simple). Considering the aforesaid totality of circumstances, the petitioner shall also be entitled for costs which are assessed as Rs.50,000/- (fifty thousand). The respondent-Nigam is hereby directed to pay the aforesaid costs of Rs.50,000/- (fifty thousand) to the petitioner within a period of 2 months from today and in default of the same, the petitioner will be entitled for interest @ 6% per annum (simple), apart from any other further proceedings in accordance with law.

15. List for compliance purposes on 22.05.2024.

20.03.2024

rakesh

(JASGURPREET SINGH PURI)

JUDGE

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