IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.01.2025

CORAM

THE HONOURABLE MR.JUSTICE BATTU DEVANAND

W.P. No. 34546 of 2018

M. Joseph ... Petitioner

Vs.

1.The District Treasury Officer,
District Treasury Office,
Coimbatore – 641 018.

2.United India Insurance Company Limited,
No.24, Whites Road,
Chennai – 600 014.

3.MD India Health Care Services (TPA) Pvt. Ltd.,
No.27, Laxmi Towers, 3rd Floor,
Dr. Radhakrishnan Salai,
Mylapore, Chennai – 600 004. ... Respondents

Writ petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the order passed by the first respondent in Na.Ka.No.703/2018/Ku 3 dated 16.02.2018 and signed on 16.03.2018 and quash the same thereby directing the respondents to pay a sum of Rs.71,683/- spent by the petitioner towards medical expenses with 18% interest from 02.02.2017 until the date of payment.

For Petitioner : Mr. M. Renton
for Mr. J. Stanley Raj Kumar
For Respondents : Mrs. R.L. Karthika, for R1
Government Advocate
No Appearance for R2 & R3

O R D E R

This Writ Petition has been filed to issue a Writ of Certiorarified Mandamus, to call for the records relating to the order passed by the first respondent in Na.Ka.No.703/2018/Ku 3 dated 16.02.2018 and signed on 16.03.2018 and quash the same thereby direct the respondents to pay a sum of Rs.71,683/- spent by the petitioner towards medical expenses with 18% interest from 02.02.2017 until the date of payment.

2. The case of the petitioner is that, he worked in the Government Department as Weaving Inspector and retired from service on 31.10.1988 and drawing pension from the first respondent. The Government of Tamil Nadu has entered into a contract with the United India Insurance Company in the name of Health Insurance Scheme from the year 2014 for the Government employees, pensioners and there family members. The petitioner is contributing his share for payment of premium to the Insurance Scheme. The petitioner is entitled to get general treatment as well as cashless treatment. On 02.02.2017, the petitioner was admitted at Ganga Medical Centre Hospital Pvt., Ltd., Coimbatore in an emergency condition. He underwent a surgery of BPH (Benivn Postrait Hypertrophy). Since he had severe pain in abdomen due to the failure of out put of urine, he was forced to admit in the Hospital on 02.02.2017 and underwent surgery on 03.02.2017 and discharged on 08.02.2017 as

per medical advice. For the entire treatment, he has spent a sum of Rs.71,683/-. Thereafter, the petitioner has submitted the claim by enclosing the medical bills along with the discharge summary for reimbursement of medical expenses incurred by him. He submitted claim application for medical reimbursement on 24.02.2017. The said claim was rejected vide proceedings dated 16.02.2018 of the first respondent. The reasons stated for not entertaining the claim of the petitioner is that, he took treatment in the non-network Hospital. Aggrieved by the same, the petitioner filed this writ petition.

3. In the counter affidavit, it is averred that due to the reason that the petitioner took treatment in non-network Hospital, his claim for medical reimbursement is denied.

4. During the course of hearing of this case, the learned Additional Government Pleader appearing for the first respondent has placed a copy of the proceedings dated 26.01.2025 and submits that the District Level Empowered Committee has considered the recommendation of the Treasury Officer, Comibatore with respect to the claim of the petitioner and accordingly, an amount of Rs.28,000/- is sanctioned towards the reimbursement of medical expenses incurred by the petitioner.

5. On perusal of the order dated 26.01.2025, it appears that the package rate for the similar treatment taken in the network hospital has been obtained from the third respondent and determined the said amount.

6. Learned Additional Government Pleader further contends that, as already the eligible amount for disbursement of the petitioner is sanctioned, as per him, nothing survives in this writ petition and sought to dismiss the same.

7. The admitted facts are not in dispute. The petitioner admitted at Ganga Medical Centre Hospital Pvt., Ltd., Coimbatore on 02.02.2017 under emergency condition and he underwent surgery in the said hospital for BPH (Benivn Postrait Hypertrophy) and was discharged on 08.02.2017 and for that treatment, he spent an amount of Rs.71,683/-. He made application for medical reimbursement, but it was rejected by an order dated 16.02.2018 on the ground that the treatment has been taken by the petitioner is in the non-network Hospital.

8. Infact, this Court by its order dated 28.05.2019 in a batch of writ petitions, directed the concerned Committee who is dealing with the medical reimbursement cases shall not reject any claim merely on the reason of taking treatment in non-network Hospital or non listed disease. Admittedly, this order has become final.

As such, there is no substance in the contention of the respondents that the petitioner is not entitled to claim medical reimbursement for the treatment took by him in non-network Hospital.

9. On perusal of the order dated 26.01.2025 placed before this Court by the first respondent stating that an eligible amount of Rs.28,000/- was granted in favour of the petitioner towards medical reimbursement, in the considered opinion of this Court, the said order appears to be illegal, irrational and unjustified. The reason stated for determining the said amount of Rs.28,000/- is that the third respondent has obtained the package rate for the similar treatment taken in network Hospital and he submitted to the District Level Committee and considering the same, the District Level Committee has decided that eligible amount. Whether the network hospital is a Government Hospital or not, or the patient, who took treatment in that case is admitted in that Hospital in emergency condition or not, all those things are not mentioned in the said order.

10. Admittedly, for the period of 01.07.2014 to 30.06.2018, the maximum eligible amount for medical reimbursement is Rs.2 lakhs, as per Health Insurance Scheme provided for pensioners / family pensioners. The petitioner claimed only an amount of Rs.71,683/-. As and when, the respondents have to consider the claims of

the pensioners for medical reimbursement, though they took treatment in the non-network Hospital as per the order dated 28.05.2019 in W.P.(MD) No.13429 of 2013 and batch passed by this Court, the District Level Committee ought to have consider all aspects while determining the amount to be disbursed to the petitioner.

11. As and when, a person suffering with any health problem and emergency treatment is required for him for survival, he will be admitted in the nearby Hospital by his family members for treatment under the supervision of the expert Doctors. For that purpose, he has to spend as per the bills raised by the said Hospital. It is not in the discretion of that person. What is expected from the District Level Scrutiny Committee or State Level Scrutiny Committee is to verity whether the bills submitted and discharge summary are genuine or not. If it is found, the bills, and the discharge summary which were certified by the concerned Doctors and Hospital are genuine, it is the duty of the District or State Level Scrutiny Committee to accept the same. They have no other option as they are not expert in that field. Admittedly, in the District Level Scrutiny Committee, which was entrusted with the work to scrutinise and recommend the claims of the employees and pensioners in the State of Tamil Nadu under the Health Scheme, except one representative from the medical health Department, all members of the Committee are not experts in the medical filed. They are not expected to dishonour the certification made by the concerned Doctors, who treated the petitioner.

12. In the present case, on perusal of the entire material available on record, this Court has no other option except to hold that the District Level Committee, who scrutinised the claim of the petitioner, utterly failed in deciding the claim of the petitioner in determining the quantum of amount to be reimbursed to the petitioner as per his claim for the treatment he took in the emergency condition. While settling the mediclaims of the retired employees or employees, the respondents have to deal it with humane approach, instead of technical grounds or with their egoistic attitude.

13. At this juncture, the learned counsel for the petitioner has drawn the attention of this Court to the judgment of the Apex Court in ***Shiva Kant Jha vs. Union of India*** reported in ***(2018) 16 SCC 187*** and would submit that, in an identical circumstances, the Apex Court has directed the respondents therein, if the factum of treatment is supported by record duly certified by Doctors / Hospitals concerned, once it is established, the claim cannot be denied on technical grounds. The relevant portion of the said judgment is extracted herein under: -

> "***17****. It is a settled legal position that the Government employee during his lifetime 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."

14. Considering the facts and circumstances of the case and by following the judgment of the Apex Court stated supra, it is held that the order impugned in this Writ Petition rejecting the claim of the petitioner for medical reimbursement and consequential order dated 26.01.2025 issued by the Commissioner of Treasuries and Accounts (FAC) Tamil Nadu, Chennai in Rc.No.CTA/57/PNHIS-2/2025 which was placed before this Court by the respondents are illegal, unjust, inhumane and against

the principles of natural justice and hence, it is liable to be quashed.

15. For the above said reasons, this Writ Petition is allowed with the following direction: -

i) The order passed by the first respondent in Na.Ka.No.703/2018/ku 3 dated 16.02.2018 and the order dated 26.01.2025 in Rc.No.CTA/57/PNHIS-2/2025 are hereby quashed.

ii) The respondents 1 and 2 are directed to pay an amount of Rs.71,683/- spent by the petitioner towards medical expenses with interest at the rate of 6% from 25.03.2017 to till the date of settlement of his claim.

16. There shall be no order as to costs.

30.01.2025

Index :Yes/No
Neutral Citation :Yes/No
AT

To
1.The District Treasury Officer,
District Treasury Office,
Coimbatore – 641 018.

2.The United India Insurance Company Limited,
No.24, Whites Road,
Chennai – 600 014.

BATTU DEVANAND, J.

AT

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