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

CWP-3974-2025

Date of decision: 28.10.2025

Raajo Devi

....Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**Present:** Mr. Akash Kundu, Advocate
for the petitioner.

Mr. Arun Kumar Singla, Asstt.A.G., Haryana.

HARPREET SINGH BRAR, J. (ORAL)

1. The present civil writ petition has been filed under Article 226 of the Constitution of India for issuance of a writ in the nature of *certiorari* for quashing the findings of the Medical Inquiry Board (Annexure P-7) dated 02.07.2022 and findings of Civil Surgeon (Annexure P-2) dated 24.01.2018 and further the speaking order dated 24.06.2020 (Annexure P-6).

2. Learned counsel for the petitioner *inter alia* contends that the husband of the petitioner was working as a Class-IV employee with respondent No.2. On 15.08.2017 while performing his duties, he suddenly collapsed and thereafter, he was taken to the nearest hospital for treatment. After going through various tests and diagnostics, the husband of the petitioner was found to be suffering from Stage-II of cancer i.e. carcinoma of base of tongue and on the advise of the doctor and without wasting further time, the chemotherapy treatment of her late husband was started. The husband of the petitioner

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submitted his medical claim along with all the requisite documents including an emergency certificate (Annexure P-1) within the stipulated period before the competent authority. Thereafter, the competent authority sought the opinion of the concerned civil surgeon i.e. respondent No.3 regarding the treatment taken by the husband of the petitioner. Respondent No.3 gave his opinion that the husband of the petitioner has not been received treatment in emergency. Thereafter, the husband of the petitioner made several oral and written requests and ultimately, served a legal notice on 03.05.2018 (Annexure P-3). Thereafter, the husband of the petitioner filed CWP No.14292 of 2019 which was dismissed as withdrawn and liberty was granted to file a fresh petition. The husband of the petitioner filed another writ petition bearing CWP No.4057 of 2020 which was disposed of by this Court on 14.02.2020 with a direction to decide the legal notice by passing a speaking order. In purported compliance to the directions issued by this Court, a speaking order was passed by summarily rejecting the claim of medical reimbursement of the husband of the petitioner solely on the ground that the treatment was not taken in an empanelled hospital. The Medical Board was constituted which rejected the claim for the treatment of the husband of the petitioner by concluding that chemotherapy is a routine treatment as per chronic disease like carcinoma base of tongue by completely knowing the physical health of the husband of the petitioner as discernible from the copy of the report of the Medical Board (Annexure P-7) and CWP No.21310 of 2021 was disposed of with a liberty to the petitioner to challenge the report of the Medical Board (Annexure P-7) and unfortunately, on 27.11.2024, the husband of the petitioner expired after battling with cancer.



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Learned counsel for the petitioner further submits that the case of the petitioner is squarely covered by the law laid down by the Hon'ble Supreme Court in 'Shiv Kant Jha Vs. Union of India' Writ Petition (Civil) No.694 of 2015 and the judgment passed by this Court in 'Parveen Kumar Vs. State of Haryana and others' CWP No.30214 of 2022 decided on 26.09.2024 (Annexure P-10).

3. Per contra, the learned State counsel refers to the opinion of the Medical Board and submits that the claim of the petitioner has been rightly rejected. Firstly, the husband of the petitioner has got treatment from a non-empanelled hospital and secondly, the treatment was not taken in a case of emergency, as such, the instant petition filed by the petitioner is liable to be dismissed.

4. Having heard learned counsel for the parties and after perusal of the record, it transpires that the husband of the petitioner had collapsed while on duty on 15.08.2017 and he immediately rushed to a private hospital and after various tests and diagnostics, he was found to be suffering from stage-II of cancer and on the advise of the doctor without wasting further time, in order to preserve the life of the husband of the petitioner, he received chemotherapy from the concerned hospital which has also issued an emergency certificate (Annexure P-1). It is not a case where the claim raised by the petitioner has not supported by medical bill and the requisite certificate. The opinion of the Medical Board by treating the medical condition of the husband of the petitioner as a routine disease itself indicates that the claim of the petitioner was declined in a whimsical manner without even adverting to the extent and nature of disease. The husband of the petitioner was suffering from Stage-II cancer



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and he ultimately succumbed to the disease. The case of the petitioner satisfies the test of essentiality.

5. The claim for medical reimbursement ought not to be dismissed merely because the claimant underwent treatment in a non-empanelled. In such cases, the test of essentiality and emergency comes into play, which dictates that if the medical procedure was undergone by the claimant in an emergency, on the advice of a doctor based on his medical record, in order to save his life, the reimbursement for the same must be made. Not only is the preservation of human life instinctive, but it also forms a part of Article 21 of the Constitution of India, and therefore, it shall always retain the highest priority.

6. Moreover, the State bears an obligation to ensure the availability of timely medical care to those in need. As such, it cannot expect the citizens to refrain from availing timely care, merely for the reason of non-empanelment of the hospital. Such conduct on the part of the State does not satisfy the criteria of fairness and reasonableness and therefore, amounts to a violation of the fundamental rights enshrined in Article 21 of the Constitution of India. Reliance in this regard can be placed on the judgments rendered by a two Judge bench of the Hon'ble Supreme Court in *Surjit Singh vs. State of Punjab and others*(1996) 2 SCC 336, whereby, speaking through Justice M.M. Punchhi, the following was opined:

“8. The policy, providing recognition for treatment of open heart surgery in the Escorts, specifically came to be examined by a Division Bench of the Punjab and Haryana High Court at Chandigarh in C.W.P. No. 13493 of 1992 titled as Sadhu R. Pall v. State of Punjab through Secretary, Health and Family Welfare Punjab, Civil Secretariat, Chandigarh and others, 1994(1) SCT 552 (P&H), decided on 6.10.1993, wherein the claim of the then writ petitioner to medical reimbursement was accepted



when in order to save his life he had got himself operated upon in the Escorts, and the plea of the State that he could be paid rates as prevalent in the AIIMS was rejected. Special Leave Petition No. 22024 of 1995 against the said decision was dismissed by this Court on 2.2.1994. The other judgments of the High Court following the decision in Sadhu R. Pall's case are :

- (1) C.W.P. No. 18562 of 1992 decided on 10.5.95 titled **K.L. Kohli v. State of Punjab and others, 1995(4) SCT 280 (P&H)**;
- (2) C.W.P. No. 260 of 1995, decided on 30.5.1995 titled *Ravi Mohan Duggal v. State of Punjab and others (DB)*
- (3) C.W.P. No. 5669 of 1994 decided on 4.9.94 titled *Prem Singh Gill v. State of Punjab and others*;
- (4) **1995(4) SCT 816 (P&H) : 1995 (III) Punjab Law Report 529 titled Tarlok Chander v. State of Punjab etc. (SB)**; and
- (5) **1996(2) SCT 148 (P&H) : 1995 (III), Punjab Law Reporter 682 titled Mrs. Surya Pandit v. State of Punjab and others (SB)**

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10. It is otherwise important to bear in mind that self preservation of one's life is the necessary concomitant of the right to life enshrined in Article 21 of the Constitution of India , fundamental in nature, sacred, precious and inviolable. The importance and validity of the duty and right to self-preservation has a species in the right of self defence in criminal law...

11. The appellant therefore had the right to take steps in self preservation. He did not have to stand in queue before the Medical Board, the manning and assembling of which, bare-facedly, makes its meetings difficult to happen. The appellant also did not have to stand in queue in the Government hospital of AIIMS and could go elsewhere to an alternate hospital as per policy. When the State itself has brought the Escorts on the recognised list, it is futile for it to contend that the appellant could in no event have gone to the Escorts and his claim cannot on that basis be allowed, on suppositions. We think to the contrary..."

7. In the matter at hand, the husband of the petitioner had collapsed during office hours and was taken to non-empanelled hospital, which was necessary at that moment in order to save his life, where he was diagnosed with Stage-II cancer as also depicted by his medical record. Therefore, the test of essentiality and emergency stands satisfied.

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8. Accordingly, the present petition is allowed. Respondent No.2 is directed to reimburse the petitioner for the medical procedure undergone by her husband along with 6% interest from the date of filing of CWP-4057-2020 till its realisation, within a period of three months from receiving a certified copy of this order.

(HARPREET SINGH BRAR)
JUDGE

28.10.2025*Neha*

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