



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

220

CWP-12291-2020 (O&M)

Date of decision: 24.07.2025

Vakil Chand Garg

...Petitioner

VERSUS

Union of India and others

...Respondents

CORAM : HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present :- Ms. Ramneek Kaur Mann, Advocate for the petitioner(s).

Mr. Arun Gosain, Sr. Govt. Counsel, and
Mr. Saurav Rao, Advocate, for the respondent(s)-UOI.

VINOD S. BHARDWAJ, J. (Oral)

1. Seeking setting aside of the order dated 01.10.2019 passed by respondent No.3 whereby the petitioner's claim for reimbursement of medical expenses under the Central Government Health Scheme (CGHS) has been declined, the instant writ petition has been filed. The rejection is founded solely on the ground that the treatment in question was availed from a private hospital and not from an empanelled under the CGHS.

2. The undisputed facts of the present case are that the petitioner, a retired Central Government employee, duly covered under the Central Government Health Scheme (CGHS), initially approached the CGHS Wellness Centre, Sector-45, Chandigarh, on 18.10.2018, complaining of a dental ailment. He was, in due course, referred by the Chief Medical Officer



to an empanelled facility - Indus Hygiea Dental Hospital, Mohali. It is an admitted position that the petitioner commenced treatment at the said hospital, but the infection persisted and worsened, thus leading to the extraction of one tooth. It is submitted that the infection was not truly cured and it spread causing a further deterioration of three lower teeth compelling the petitioner to seek an independent second opinion.

3. Upon consultation with *Elite Dental Hub*, Sector-19, Chandigarh, though a non-empanelled private dental centre, the doctors there assured that the infection could be contained without any further tooth extraction. Weighing the risk to life, consistent pain in teeth and the cumulative health issues given the petitioner's age and co-morbid conditions such as hypertension, diabetes, and heart ailments, the petitioner opted for treatment at *Elite Dental Hub*. The infection was successfully controlled by them and unnecessary extractions were thus averted.

4. Despite the treatment being medically necessary, effective, and duly supported by proper medical documentation, the claim seeking for reimbursement of the medical expenses has been declined by the respondents solely on the ground that *Elite Dental Hub* was not an empanelled hospital under CGHS. It is submitted that such mechanical rejection as per law, runs contrary to the principles enunciated by the Hon'ble Supreme Court in *Shiv Kant Jha v. Union of India*, (2018) 16 SCC 187, wherein it has been held that reimbursement claims ought not to be denied merely on the ground of hospital where treatment is obtained being non-empanelled and more so in cases where the treatment is established to be genuine and necessary and has been duly certified by the treating doctors.



In the present case, there is no dispute with respect to the necessity of treatment, the existence of a chronic infection or to the *bona fide* in decision of the petitioner to switch to an alternative healthcare provider arising from unsatisfactory treatment results and medical urgency. Consequently, the rejection of the claim solely on the ground of non-empanelment is arbitrary, unreasonable, and unsustainable in law.

5. Per contra, learned counsel appearing on behalf of the respondent does not dispute the factual position regarding the referral of the petitioner to Indus Hygiea Hospital, Mohali — an empanelled institution under the CGHS. However, it is contended that at no point in time did the petitioner lodge any formal complaint before the CGHS Wellness Centre alleging failure or inadequacy of treatment by the said empanelled hospital. It is further submitted that the petitioner, of his own volition and without prior intimation or approval, sought treatment from a private non-empanelled hospital. The bills submitted by the petitioner, it is argued, pertain to the same ailment for which treatment had already been initiated at the empanelled hospital, and, therefore, reimbursement thereof stands rightly declined in accordance with the extant CGHS guidelines.

6. No other argument has been cited nor any other judgment cited.

7. I have heard the learned counsel appearing on behalf of the respective parties and have gone through the documents appended with the instant petition, with their able assistance.

8. Undisputedly, the claim of the petitioner stands rejected solely on the ground that the treatment in question was availed from a non-empanelled private hospital. Such a rejection, in the considered view of this



Court, reflects a manifest disregard to the authoritative pronouncement of the Hon'ble Supreme Court in *Shiva Kant Jha v. Union of India*, (2018) 16 SCC 187, wherein it was held that denial of medical reimbursement cannot be premised merely on the treatment having been taken from a non-empanelled institution, especially where the treatment is otherwise bona fide, necessary, and supported by contemporaneous medical records. The relevant extract of the aforesaid judgment is as 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 specialised 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 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 abovesaid 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 CGHS rates and that too after*



following a proper procedure given in the circulars issued on time to time by the Ministry concerned, 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.

9. Before declining the claim, the competent authority was hence under an obligation to ascertain whether the treatment was, in fact, availed by the employee and whether it was emergent or necessitated in the given circumstances and record its satisfaction. In matters relating to dental health, particularly involving extraction and post-operative infection, it is not an uncommon medical eventuality that complications such as localised or spreading infection may arise or re-occur due to a variety of reasons despite treatment. Such infections can compromise adjacent teeth, gums, and even systemic health and much higher amongst the elderly individuals or those suffering from co-morbidities. A mechanical rejection of the claim, without appreciation of these surrounding medical realities, cannot be countenanced.

10. It is pertinent to note that the respondents have not, at any stage, disputed or denied the factum of the petitioner having actually undergone the treatment in question. There is also no categorical denial on record with regard to the applicability of the judgment rendered by the Hon'ble Supreme Court in *Shiva Kant Jha v. Union of India* (2018) 16 SCC 187. In absence of any such rebuttal, the rejection of the petitioner's claim on the ground of the treatment not being availed from an empanelled hospital appears arbitrary and contrary to settled legal position.

11. Under the given circumstances, I find that the reasons assigned



220

CWP-12291-2020 (O&M)

by the respondents for declining the claim of the petitioner vide order dated 01.10.2019 are bad and the same is liable to be set aside.

12. The matter is hence remanded to the respondents to re-consider the claim of the petitioner for reimbursement of the medical bill(s). The respondents would be at a liberty to conduct an enquiry with respect to the validity and genuineness of the treatment taken by the petitioner. In the event of the claim of the petitioner about the treatment not being in dispute, the necessary reimbursement, in terms of the judgment passed by the Hon'ble Supreme Court be made to the petitioner.

13. Let the entire process be completed by the respondents within a period of 03 months of receipt of a certified copy of this order.

14. **Allowed in above terms.**

(VINOD S. BHARDWAJ)
JUDGE

24.07.2025*Mangal Singh*

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