CWP-27930-2019

223 IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CWP-27930-2019
Date of Decision: 06.08.2025

PUSHPA NANDA ...PETITIONER

Vs.

STATE OF HARYANA AND ORS ...RESPONDENTS

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

Present: Mr. Sukhdeep Singh, Advocate
for the petitioner.

Mr. Rahul Dev, Addl. Advocate General, Haryana.

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VINOD S. BHARDWAJ, J. (ORAL)

1. Challenging the order dated 17.07.2019 passed by Engineer-in-Chief, Irrigation & Water Resources Department, Haryana whereby the medical reimbursement bills of the petitioner for the treatment of mouth Cancer during 11.07.2018 to 07.09.2018, carried out at Rajiv Gandhi Cancer Institute and Research Centre, New Delhi (*for short, 'Hospital'*) in the Out-Patient Department (OPD) before issuance of a Chronic Disease Certificate (*for short, 'Certificate'*), have been declined by the respondent(s), the instant writ petition has been filed.

2. Learned counsel appearing on behalf of the petitioner contends that Late B. K. Nanda, the husband of the petitioner had retired as S.D.O from Division No.1, Karnal. He submits that the petitioner was suffering from mouth Cancer and got an emergent life saving treatment

from the Hospital with Radiotherapy and Chemotherapy. He further submits that after the treatment, the petitioner applied for the medical reimbursement of bills to the tune of Rs.1,79,516.27 along with the entire medical treatment and record, however, the respondent(s) initially raised an objection that the Chronic Disease Certificate had not been enclosed. The petitioner thereafter applied for issuance of a Certificate, whereupon the Medical Board of Civil Hospital, Karnal issued the Certificate, with a validity of two years, by taking into consideration the disease of which the petitioner was suffering. The application was sent by the Executive Engineer, Irrigation and Water Resources Department, Haryana to the Superintendent Engineer *vide* Office letter dated 15.02.2019, informing that there was no provision in the Medical Rules for issuing sanction where the Certificate is obtained after the treatment has been obtained, hence, permission from the higher authorities for the above-said medical reimbursement is required. However, the reimbursement was rejected by the Head Office on the ground(s) that the petitioner took the treatment in the OPD, before issuance of Certificate and that the petitioner was already getting a fixed medical allowance during the said period.

3. Learned counsel contends that both the above objections are unsustainable inasmuch as the object behind medical reimbursement cannot be defeated on ministerial documentation or the reason that the Certificate had not been obtained prior to the commencement of the treatment. The very fact that the Competent Authority, as notified by the respondent(s), issued a Certificate that was valid for a period of two years

is sufficient to prove that the disease was a 'Chronic Disease' as notified by the respondent(s). He further submits that insofar as the objection of the respondent(s) that since the petitioner was availing a fixed medical allowance hence she is disentitled to the medical re-imbursement is concerned, the said issue has already been dealt with by a Division Bench of this Court in the matter of *Raghuvir Prasad Mittal v. State of Haryana and others*, **2008 (3) S.C.T. 362**, which reads as under:-

> *"* *****
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> ***5**. So far as the objection of the Nigam that the petitioner is getting Fixed Medical Allowance and, therefore, is not entitled for reimbursement is concerned, it is not at all practicable. By no stretch of imagination, it can be assumed and presumed that one could get treatment of serious ailment like cancer with meager amount of Fixed Medical Allowance. The benefit of giving Fixed Medical Allowance must be for routine medical treatment. However, for treatment of serious ailment, the technicalities should not and could not have been applied. The hyper- technical stand taken by the Nigam is wholly unreasonable and unjustified. The other objection taken by the Nigam is that the amount claimed by the petitioner for his wife's treatment is highly exaggerated. Suffice it to say since the petitioner had taken treatment of his wife from the P.G.I, Bombay Hospital, Mumbai/ Bombay Hospital & Medical Research Centre, Mumbai, the genuineness of the bills cannot be disputed.*
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> ***6**. Another object of the Nigam to the reimbursement claim is that the Doctor at P.G.I had referred the case of petitioner's wife to the A.I.I.M.S, but instead of taking her there, he took her to Bombay Hospital, Mumbai/Bombay*

Hospital & Medical Research Centre, Mumbai.. It has been stated in the petition that petitioner's wife was taken to P.G.I for check up from June 25, 2005 to July 07, 2005. She was admitted in the P.G.I on June 08, 2005. Amputation of right hand of petitioner's wife was decided by the Doctor at P.G.I. She was admitted in P.G.I on July 08, 2005 for this purpose. On request of the petitioner, P.G.I authorities discharged his wife on July 10, 2005. The petitioner then took his wife to Bombay Hospital, Mumbai and she was admitted in the Bombay Hospital & Medical Research Centre, Mumbai, on July 11, 2005, for getting the treatment. The Hospital at Bombay is known for cancer treatment. So far as the availability of medical facilities at the institute like the A.I.I.M.S, Delhi, is concerned, normally the waiting period is so much that the emergency patients most of the times cannot be entertained and they are referred to other hospitals. It is worth noticing that it is only in dire emergency that a person reaches the hospital where immediate treatment can be given. In a case where the life of a human being is at stake, it is too technical to require such a person to hunt for a list of the approved hospitals and then decide which hospital to go in emergency situation. Sometimes, such hospitals may not be able to accommodate the patient and at that time the attendant is not expected to first look into the list of approved/recognized hospitals for medical reimbursement and then proceed for treatment. Such procedures should not be expected to be followed in an emergency by the attendant of the patient. If such regulations are applied so strictly, it would result in a disastrous situation and the patient may die. The act committed in an emergency should not be weighed in terms of money, especially when human life is at stake. The

> *provision of free medical treatment or reimbursement in lieu thereof being a beneficial act of the welfare State for its employees, the rules/instructions have to be construed liberally in favour of the employees, for granting them the relief. The authorities are not supposed to adopt a wooden attitude and stick to technicalities while dealing with human problems. There can be no mathematical precision while dealing with human beings. We cannot lose sight of the factual situation that the wife of the petitioner had been diagnosed to be suffering from cancer and had to be got admitted in the Hospital at Mumbai and required a specialised treatment. It was also not expected of the petitioner to request to the authorities at that point of time for granting him permission to take treatment for his wife from a particular hospital."*

4. Referring to the above, learned counsel for the petitioner contends that in the said case, the petitioner was availing a fixed medical allowance and the medical reimbursement was declined for the said reason. The Division Bench held that the entitlement of fixed medical allowance to an employee is no ground for refusing re-reimbursement for serious ailments like Cancer. The meagre amount of fixed medical allowance for routine medical treatment cannot be considered sufficient by any stretch of imagination for treatment of serious ailments requiring huge expenses.

5. Reliance is also placed on the judgment passed by the Single Bench of this Court in *Raj Kumar Garg v. Haryana State Agricultural Marketing Board and others*, **CWP-4800-2024** decided on 27.09.2024

wherein for an emergency medical treatment, the respondent-State had been directed to reimburse the medical expenses incurred when the employee was travelling to Ujjain, *albeit* at AIIMS rates.

6. Learned counsel appearing on behalf of the respondent-State, however, contends that as the condition(s) prescribed in the Medical Reimbursement Policy i.e. seeking a prior Certificate from the Competent Authority about the disease being chronic was essential and the petitioner having opted for a fixed medical allowance, the petitioner could not seek reimbursement, hence, the case has been rightly rejected in terms thereof. He is, however, not in a position to dispute the catena of the judgments of the Division Bench as well as the Single Bench of this Court, as referred to above.

7. A specific question has also been put to the learned counsel for the respondent-State, as to what material difference would it make in case, the Certificate is issued after the treatment as against the issuance of the Certificate prior to commencement of the treatment, however, he is not in a position to refer to any cogent objective behind the same. A specific query is also put to the counsel as to whether the State disputes the petitioner having taken the treatment, he fairly submits that the rejection order does not assign any such reason disputing the disease or the treatment.

8. I have heard the learned counsel for the respective parties and have perused the material appended with the instant writ petition.

9. The rejection of the claim of the petitioner for medical

reimbursement on the aforesaid twin grounds, in my view, would no longer sustain in view of the law as interpreted by precedent judgments. Insofar as the objection of the respondent-State that the petitioner was availing a fixed medical allowance, hence, she could not have sought a medical reimbursement is concerned, the Division Bench in the matter of *Raghuvir Prasad Mittal (supra)* clearly holds the field. Notwithstanding the employee therein availing a fixed medical allowance, the respondent-State was held liable to reimburse the expenses incurred for a disease like Cancer.

10. Further, in the matter of *Raj Kumar Garg (supra)*, the Single Bench of this Court has also held that merely because a person has taken a treatment at a private hospital, the same cannot be a ground to deny the medical reimbursement in accordance with the applicable policy and the rates prescribed thereunder.

11. Further, the objection with respect to the non-availability of a prior certificate from the competent authority, however, deserves to be rejected as no objective or rationale has been supplied to this Court by the respondents. Moreover, once a person has been diagnosed with a disease like cancer, his first priority is to initiate the treatment of the same, lest it grows severe. It is only at a later point in time that a person would think of fulfilling the requirements of medical reimbursement. Hence, a mere *post-facto* issuance of a Certificate would not be a disqualification unto itself to deny the medical reimbursement against a disease which is otherwise undisputedly being treated for. The object behind medical

reimbursement is to reimburse the actual medical bills for an actual treatment for the diseases covered and at the rates approved. The authorities are expected to examine the claim with the said object and not sequencing of the documents. The documents are merely an aid to establish the validity of the claim and it cannot be disbelieved merely on the basis of date of its issue. Issues of human life are not governed by step by step operating procedures of office but by immediate priorities. A clerical approach by supervisory and decision making authority should not be the way to deal with the same and the decision should promote the object for which the policy is framed. For the same reason, if a chronic disease is being treated as an OPD due to advancement in medical procedures and an employee is not required to be admitted, the same should not be a reason to deny but has to be viewed that avoidable hospitalization and room charges have been saved.

12. Consequently, the present writ petition is allowed and the impugned order dated 17.07.2019 passed by respondent No.2 is **set aside**. The respondents are directed to consider the claim of the petitioner for medical reimbursement in accordance with the rates as per the applicable policy, after verification of the treatment and the bills. The admissible financial benefits, on account of medical reimbursement, be released to the petitioner. Let the entire exercise be completed within a period of two months of the receipt of certified copy of this order.

13. If the needful is not done within the above time frame, the petitioner would be entitled to interest @6% p.a. from the date of filing of

the instant writ petition. Such enhanced financial liability may be recovered from the official(s) responsible for such delay.

(VINOD S. BHARDWAJ)
JUDGE

06.08.2025
Rahul Joshi

Whether Speaking/reasoned Yes/No
Whether Reportable Yes/No