

117

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-29679-2025
DECIDED ON: 05.12.2025

KAILASH CHANDER BANSAL

.....PETITIONER

VERSUS

STATE OF HARYANA AND OTHERS

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Dinesh Arora, Advocate
for the petitioners

Mr. Deepak Balyan, Addl. AG Haryana

SANDEEP MOUDGIL, J (ORAL)

1. **Prayer**

The present writ petition under Articles 226 and 227 of the Constitution of India has been filed seeking issuance of a writ of mandamus directing the respondents to decide the legal notice dated 30.06.2025 (Annexure P-15) and to reimburse the medical claim of the petitioner amounting to ₹2,92,474/- along with interest @ 18% per annum, on account of deliberate and inordinate delay.

2. **Brief Facts:-**

It is the case of the petitioner that while visiting Pune on 12.02.2024, the petitioner suffered acute urinary retention, his urinary tract became completely blocked and he was taken in an emergent condition to Kulkarni Uro Surgery Institute Pvt. Ltd., Pune, where he underwent emergency treatment and was discharged on 15.02.2024 (Annexure P-2). The petitioner duly submitted original

medical bills totaling ₹2,92,474/- along with essentiality certificate on 21.02.2024 (Annexure P-3).

The matter was sent to the Civil Surgeon, Panchkula, who opined on 15.03.2024 that urethroplasty was not an emergency (Annexure P-5), without referring it to any duly constituted medical board. Since the case involved a senior citizen, chronic ailment and emergency treatment at an out-of-state hospital, it was forwarded for policy relaxation to the Additional Chief Secretary on 08.04.2024 (Annexure P-6).

The Director General Health Services (DGHS), Haryana forwarded the case to PGIMS Rohtak, where a Medical Board clearly opined on 18.07.2024 that “acute retention of urine is a urological emergency” (Annexure P-8). Despite this clear opinion, the matter was repeatedly reopened, sent again and again between authorities causing unjustified delay for more than one and a half years, even after reaffirmation by the Medical Board on 04.12.2024 and 06.12.2024 (Annexures P-10 & P-11). A legal notice dated 30.06.2025 was served (Annexure P-15), yet no reimbursement was granted.

3. **Contentions:**

On behalf of the petitioner:-

Learned counsel for the petitioner submits that the petitioner is a 75-year-old retired employee who served the department for 35 years and is suffering from a chronic urological ailment since 1967. While on a visit to Pune on 12.02.2024, he developed acute urinary retention, which is a medical emergency, and was immediately hospitalized and treated. All original medical bills amounting to ₹2,92,474/- along with essentiality certificate were duly submitted to the department.

It is contended that despite a clear opinion of the Medical Board, PGIMS Rohtak, declaring the condition as an emergency, the respondents have arbitrarily delayed and virtually denied reimbursement for more than one and a half years. It is further argued that denial of reimbursement on the ground that the hospital was not empanelled is illegal and violative of Article 21 of the Constitution. Therefore, the petitioner seeks reimbursement with interest for the inordinate delay.

On behalf of respondent/State

Learned State counsel, on the other hand, contends that the petitioner took treatment from an out-of-State, non-empanelled private hospital, and as per Medical Attendance Rules, certification of emergency was mandatory. The respondents rely upon the opinion of the Civil Surgeon, Panchkula, who opined that urethroplasty was not an emergency treatment (Annexure R-2).

It is stated that due procedure was followed by referring the matter to higher authorities for clarification and policy relaxation and that there was no mala fide intention on the part of the respondents. It is further contended that reimbursement is governed strictly by policy and the petitioner has no absolute right to claim reimbursement beyond the prescribed rules. Accordingly, dismissal of the writ petition is prayed for.

Heard learned counsel for the respective parties.

4. **Analysis**

Having heard learned counsel for the parties and after perusing the record, this Court is of the considered view that the action of the respondents in withholding the medical reimbursement of the petitioner is wholly arbitrary, illegal and violative of Article 21 of the Constitution of India.

The factum of treatment, the genuineness of the medical bills and the chronic ailment of the petitioner are not in dispute. The petitioner, a 75-year-old retired employee, suffered acute urinary retention on 12.02.2024 while he was in Pune, a condition which has been categorically certified by the duly constituted Medical Board, PGIMS Rohtak, as a urological emergency *vide* report dated 18.07.2024 (Annexure P-8). Once such an expert medical opinion exists on record, the respondents could not have relied upon the preliminary opinion of the Civil Surgeon, Panchkula, particularly when it was rendered without reference to a Medical Board. The continued reopening of the file despite repeated confirmations of emergency reflects gross non-application of mind and amounts to bureaucratic arbitrariness.

The right to medical reimbursement flows directly from the fundamental right to life guaranteed under Article 21 of the Constitution. The Supreme Court in “***State of Punjab v. Mohinder Singh Chawla, (1997) 2 SCC 83***”, wherein it was observed that

“It is now settled law that right to health is an integral to right to life. Government has constitutional obligation to provide the health facilities. If the Government servant has suffered an ailment which requires treatment at a specialised approved hospital and on reference whereat the Government servant had undergone such treatment therein, it is but the duty of the State to bear the expenditure incurred by the Government servant. Expenditure, thus, incurred requires to be reimbursed by the State to the employee. The High Court was, therefore, right in giving direction to reimburse the expenses incurred towards room rent by the respondent during his stay in the hospital as an inpatient.”

Also in the case of “***Paschim Banga Khet Mazdoor Samity v. State of West Bengal, (1996) 4 SCC 37***”, the apex court has held that preservation of human life is of paramount importance and the State has a constitutional obligation to provide timely medical treatment. Relevant extract of the same is as follows:

9. The Constitution envisages the establishment of a welfare state at the federal level as well as at the state level. In a welfare state the primary

duty of the Government is to secure the welfare of the people. Providing adequate medical facilities for the people is an essential part of the obligations undertaken by the Government in a welfare state. The Government discharges this obligation by running hospitals and health centres which provide medical care to the persons seeking to avail those facilities. Article 21 imposes an obligation on the State to safeguard the right to life of every person. Preservation of human life is thus of paramount importance.

Further, the issue of denial of reimbursement on the ground of non-empanelment of hospital is no longer res integra. In “**Shiva Kant Jha v. Union of India, (2018) 16 SCC 187**”, the Supreme Court held that once the factum of treatment is established, reimbursement cannot be denied on technical grounds and that the real test is whether the claimant actually underwent bona fide treatment. It was observed that,

“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.

15. In the present view of the matter, we are of the considered opinion that the CGHS is responsible for taking care of healthcare needs and well being of the central government employees and pensioners. In the facts and circumstances of the case, we are of opinion that the treatment of the petitioner in non-empanelled hospital was genuine because there was no option left with him at the relevant time. We, therefore, direct the respondent-State to pay the balance amount of L 4,99,555/- to the writ petitioner”.

Similar view has been taken by this Court in “**Om Parkash Kashyap v. State of Haryana, 2011 (2) PLR 645**”, wherein it was held that medical reimbursement cannot be denied merely on procedural technicalities, particularly in cases involving chronic illness, stating that,

“6. The facility of medical reimbursement to an employee is a valuable right which the employer offers to its employees. The inhibitive interpretation of such a beneficial policy which has the effect of defeating it altogether can never be accepted.

7. A person who has been afflicted with a threateningly terminal ailment, is likely to incur the expenditure of his treatment and to say that the Fixed Medical Scheme is just sufficient for him to meet such expenses, is only defeatist in character.”

In view of the settled legal position, the stand of the respondents that only partial treatment is reimbursable or that the petitioner is entitled to “nil” reimbursement is completely unsustainable in law. The respondents were duty-bound to reimburse the full admissible amount once the emergency nature of treatment stood conclusively established by the Medical Board. The denial, therefore, is not only arbitrary but also unconstitutional.

5. **Conclusion**

In light of the foregoing discussion and for the reasons recorded above, the present writ petition stands allowed. The respondents are ordered to reimburse the medical bill claim of the petitioner of Rs. 2,92,474/- within a period of 4 weeks from the receipt of a certified copy of this order.

Ordered accordingly.

Pending applications, if any, stand disposed of.

05.12.2025
anuradha

(SANDEEP MOUDGIL)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>