2026:PHHC:013886

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-15676-2020
DECIDED ON: 17.02.2026

PARSH RAM

.....PETITIONER

VERSUS

STATE OF HARYANA AND OTHERS

....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.

Present: Mr. Sahil Mehra, Advocate with
Mr. Parveen Chauhan, Advocate
for the petitioner.

Mr. Rahul Dev Singh, Addl. AG, Haryana.

SANDEEP MOUDGIL, J

Prayer

1. The jurisdiction of this Court under Articles 226/227 of the Constitution of India has been invoked for issuance of a writ in the nature of *Certiorari* to quash the impugned orders dated 20.01.2020 and 17.11.2017 (Annexures P-5 & P-6 respectively) passed by respondent No.4 whereby his claim for medical reimbursement of an amount of ₹1,58,725/- incurred on dialysis treatment of his son was rejected with a further prayer for issuance of a writ in the nature of *Mandamus* directing the respondents to release an amount of Rs.1,58,725/- on account of medical bills along-with interest @12% per annum.

Brief Facts

2. As borne out from the record, the son of the petitioner was suffering from End Stage Renal Disease, requiring regular dialysis, which is a life-saving treatment. The treatment was taken from a private dialysis centre due to non-availability of facilities at PGIMER, Chandigarh, and the emergent nature of the disease. The petitioner submitted medical bills to the department, but the same were rejected primarily on the ground that the hospital was not on the approved panel and the treatment was not certified as “emergency” by the Civil Surgeon.

3 Aggrieved by the rejection, the present petition has been filed.

Contentions
On behalf of the petitioner

4. Learned counsel for the petitioner vehemently contends that the impugned action of the respondents is wholly arbitrary, unjust and violative of the fundamental rights of the petitioner. It is submitted that the son of the petitioner was suffering from End Stage Renal Disease, a life-threatening condition, necessitating continuous and regular dialysis, which is not merely a routine treatment but a life-saving medical necessity. The urgency and gravity of the ailment left the petitioner with no real choice but to arrange immediate treatment from the nearest available medical facility.

5. Learned counsel argues that the rejection of the claim solely on the hyper-technical ground that the hospital was not empanelled and that the treatment was not certified as “emergency” by the Civil Surgeon is wholly untenable in law. The authorities have adopted a mechanical approach, ignoring the overwhelming medical evidence on record demonstrating the life-saving nature of the treatment.

6. Reliance has been placed upon the judgment dated 03.12.2018 passed in CWP No. 13494 of 2016 titled as ***"Manoj Jain vs. State of Haryana and others"*** wherein this Court has categorically held that medical reimbursement cannot be denied merely because treatment was taken from a non-empanelled hospital or as an outdoor patient, and that such expenses are liable to be reimbursed at prescribed rates. It is, thus, contended that the impugned orders dated 20.01.2020 and 17.11.2017 (Annexures P-5 & P-6 respectively) are legally unsustainable, being contrary to settled principles of law as well as violative of Article 21 of the Constitution of India, which guarantees the right to life and access to medical treatment.

On behalf of the Respondents

7. Per contra, learned State counsel has argued that the present writ petition is devoid of merit and deserves outright dismissal. It is contended that the claim of the petitioner has been rightly rejected strictly in accordance with the Government policy dated 06.05.2005 governing medical reimbursement.

8. Learned counsel submits that the treatment in question was admittedly taken from a private hospital which was not on the approved panel of the Government, and therefore, the petitioner is not entitled to reimbursement as a matter of right. It is further argued that as per the policy, reimbursement in respect of treatment taken from an unapproved hospital can be granted only in cases of duly certified emergency.

9. In the present case, the Civil Surgeon, Panchkula, upon examination of the medical record, has categorically opined that the treatment was not of emergent nature, and thus the claim falls outside the permissible framework of the

policy. It is, therefore, submitted that the competent authority has taken a conscious and reasoned decision based on applicable rules and instructions, and no illegality or arbitrariness can be attributed to the impugned orders warranting interference by this Court.

Analysis

10. Having heard learned counsel for the parties at length and after perusing the paper-book, this Court is of the considered view that the present petition deserves to be allowed.

11. At the outset, it may be noticed that there is no dispute with regard to the fact that the son of the petitioner was indeed suffering from End Stage Renal Disease and was undergoing continuous dialysis for the same. The medical record placed on file leaves no manner of doubt that the treatment was not elective or optional, but was necessitated by the life-threatening condition of the patient. Dialysis, by its very nature, is a life-sustaining procedure and any interruption therein would seriously endanger life.

12. The sole basis on which the claim of the petitioner has been declined is that the treatment was taken from a non-empanelled hospital and that the same was not certified as an “emergency” by the Civil Surgeon. This Court is unable to accept such a hyper-technical approach adopted by the respondents.

13. Reliance can be placed upon the judicial pronouncement rendered in the case of “***Surjit Singh v. State of Punjab 1996 (2) SCT 234***”, wherein the Hon’ble Apex Court rejected the denial of reimbursement on technical grounds where treatment was taken in a non-approved hospital during emergency. Similarly in “***State of Punjab v. Mohinder Singh Chawla” 1997 (1) SCT 716***”, it was held

by the Hon'ble Supreme Court that the State is constitutionally obligated to bear medical expenses of its employees, the right to health being integral to life itself, while observing that,

> *"Consequently, when the patient was admitted and had taken the treatment in the hospital and had incurred the expenditure towards room charges, inevitably the consequential rent paid for the room during his stay is integral part of his expenditure incurred for the treatment. Consequently the Government is required to reimburse the expenditure incurred for the period during which the patient stayed in the approved hospital for treatment. It is incongruous that while the patient is admitted to undergo treatment and he is refused the reimbursement of the actual expenditure incurred towards room rent and is given the expenditure of the room rent chargeable in another institute whereat he had not actually undergone treatment. Under these circumstances, the contention of the State Government is obviously untenable and incongruous.*

14. The culmination of this evolution is found in "***Shiva Kant Jha v. Union of India" 2018 (2) SCT 529***", wherein the Hon'ble Apex Court held in clear and unambiguous terms that a government employee or pensioner cannot be denied reimbursement merely because treatment was obtained in a non-empanelled hospital during emergency. The Court emphasised that technicalities cannot defeat life-saving decisions and that reimbursement must be real and meaningful, not illusory. Relevant extract of the same is as under:

> *"13. It is a settled legal position that the Government employee during his life time 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.*
>
> *14. 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.*"

15. A coordinate Bench of this Court in *Manoj Jain's case (supra)* has categorically held that medical reimbursement cannot be denied merely on the ground that the treatment was taken from an unapproved hospital or as an out-door patient, and that the reimbursement, at least to the extent of admissible rates of recognized institutions like PGI/AIIMS, is liable to be granted.

16. The ratio of the aforesaid judgment squarely applies to the facts of the present case. The insistence of the respondents on certification of "emergency" by the Civil Surgeon, in the peculiar facts of the present case, is wholly misplaced. When the nature of disease itself is chronic, progressive and life-threatening, requiring periodic dialysis, the treatment cannot be compartmentalized into rigid categories of "emergency" or "non-emergency" so as to defeat a legitimate claim.

17. It also needs to be observed that the right to health and medical care is an integral facet of Article 21 of the Constitution of India. The State, being a welfare State, cannot shirk its responsibility by resorting to technicalities,

particularly when the treatment itself is not disputed and has been found to be necessary.

18. In "***Paschim Banga Khet Mazdoor Samity v. State of West Bengal" 1996 (4) SCC 37***, it was held by the Supreme Court that failure to provide timely emergency medical treatment constitutes a violation of Article 21 and that the State cannot avoid its responsibility on the plea of financial constraints. The constitutional position is thus no longer in doubt as the Court elevated emergency medical care to a constitutional obligation, and held that preservation of life is a paramount obligation of the State, while observing that,

> *"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. The Government hospitals run by the State and the medical officers employed therein are duty bound of extend medical assistance for preserving human life. Failure on the part of a Government hospital to provide timely medical treatment to a person in need of such treatment results in violation of his right to life guaranteed under Article 21."*

19. The Supreme Court while holding that preservation of human life is of paramount importance, in "***Parmanand Katara v. Union of India 1995 (3) SCC 248***", observed that no procedural law or technicality can stand in the way of human dignity and stated as under,

> "4. *We agree with the petitioner that right to dignity and fair treatment under Article 21 of the Constitution of India is not only available to a living man but also to his body after his death. According to us, the only requirement of the above-quoted para of the Manual is that the*

> *body of the condemned prisoner shall only remain suspended till the time the medical officer, present on the spot, declares him dead. We make it clear and hold that the jail authorities in the country shall not keep the body of any condemned prisoner suspended after the medical officer has declared the person to be dead. The limitation of half an hour mentioned in para 873 is directory and is only a guideline. The only mandatory part of the above-quoted para is that the condemned person has to be declared dead by the medical officer and as soon as it is done the body has to be released from the rope."*

20. This Court is of the clear opinion that once the factum of treatment and the necessity thereof stands established, denial of reimbursement on the ground that the hospital was not empanelled or that the treatment was not formally certified as "emergency" is arbitrary and unsustainable in law.

Conclusion

21. For the reasons recorded hereinabove, the present writ petition is allowed. The impugned orders dated 17.11.2017 and 20.01.2020 (Annexures P-5 & P-6 respectively) are hereby set aside, being unsustainable in law and contrary to the settled principles governing medical reimbursement. The respondents are directed to process and release the claim of the petitioner for medical reimbursement in respect of the treatment of his son along-with interest @ 9% per annum on the admissible amount from the date it became due till the date of actual payment, in view of the unjustified and prolonged denial of legitimate dues within a period of 8 weeks from the date of receipt of certified copy of this order.

22. Ordered accordingly.

23. Pending applications, if any, stand disposed of.

(SANDEEP MOUDGIL)
JUDGE

17.02.2026
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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No