
(2013) 09 MAD CK 0307

In the Madras High Court

Case No : Writ Petition No. 8449 of 2007 (T) and O.A. No. 4703 of 2002

A. Nagoor Pitchai

APPELLANT

Vs

State of Tamilnadu

RESPONDENT

Date of Decision : 25-09-2013

Acts Referred:

Citation : (2013) 09 MAD CK 0307

Hon'ble Judges : K. Ravichandrababu, J

Bench : Single Bench

Advocate : K.M. Ramesh for Mr. P. Anbazhagan, for the Appellant; N. Sakthivel, Government Advocate for R1 to R3, for the Respondent

Final Decision : Allowed

Judgement

K. Ravichandrababu, J.—The challenge in the writ petition is against the order passed by the third respondent in rejecting the petitioner's claim for reimbursement the medical expenses under the Tamil Nadu Government Employees' Health Fund Scheme, solely on the ground that the hospital in which the petitioner took treatment was not the accredited medical institution at the time of taking such treatment. Both the learned counsel agree that the said hospital is presently accredited by the Government. Therefore, the only reason for rejecting the petitioner's request is that the said hospital was not under the list of accredited institutions by the Government at the time of taking such treatment.

2. Similar issue was considered by this Court in a case reported in E. Ramalingam Vs. The Director of Collegiate Education and The Regional Joint Director of Collegiate Education, Tiruchirapalli Region, wherein the learned single Judge has observed at paragraphs 7 and 8 as follows:

7. In matters like this, the Government Orders should not be strictly construed as on the date when the Government Order was issued, the treatment viz., PTCA Stent could not have been invented or introduced. In recent days, the concept of

treating ailments, has advanced so much, thanks not only to the Speciality Hospitals, Doctors specialized in the modern/advance treatments, but also the advanced techniques in method of treatment with use of sophisticated equipments. 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 expertised both on academic qualifications and experience gained. Very little scope is left to the patient or his relative to decide as to manner in which the ailment should be treated.

8. In regard to the reasons as to the non inclusion of the Hospital in Government Order for denial, this Court cannot brush aside the advancement in modern medical treatment. Speciality Hospitals are established for treatment for 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 the beneficial order of the Government, solely on the ground that the said Hospital is not included in the Government Order. It cannot be so, as the Government Order should be read keeping the purpose for which the same was issued. 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 as found in the impugned order. Having regard to the above lacunae in the earlier Government Order and issuance of subsequent Government Order including not only the treatment but also the hospital, I am of the view that the petitioner is entitled to claim reimbursement.

3. Another learned single Judge of this Court in a decision made in W.P. No. 2714 of 2007 (T), (O.A. No. 5757 of 2001) dated 4.11.2011 has observed at paragraphs 5 and 6 as follows:

5.When a person is struggling for life and when his family members want to save his life, no body would search for a recognised hospital for future medical reimbursement. It is not the case of the respondents that no surgery was performed. Having admitted that heart surgery was performed, the respondents are not correct in refusing to reimburse the medical expenses.

6. The very purpose of the health scheme is to help the ailing employees particularly when they are faced with major problems such as Heart Surgery, etc. In a similar circumstances, this Court in K. Mani Vs. The Secretary to Government, Health and Family Welfare Department, The Director of medical and Rural Health Services, The Joint Director of Medical Services, Government Headquarters Hospital and The Superintendent of Police, and K. Balswami Vs. Director of Pension and The Treasury Officer, , held that medical reimbursement should not be denied on the ground that the petitioner failed to undergo heart

surgery in the hospital recognised by Government of Tamilnadu.

4. I find that the above two decisions rendered by the learned single Judges of this Court squarely apply to the facts and circumstances of the present case and consequently the petitioner is entitled to succeed based on those two decisions rendered by this Court. As rightly observed by the learned single Judge in W.P. No. 2714 of 2007 (T), (O.A. No. 5757 of 2001) dated 4.11.2011, a person struggling for life or his family members cannot be expected at the golden hours to search for a recognized hospital to save the life of such person for immediate medical facilities. The idea to get the medical reimbursement will not certainly strike in their mind at that point of time so as to search for hospitals, which are listed by the Government as recognized institutions. Therefore, if that requirement is expected to be complied with by the ailing person or his family members, then the object of giving the reimbursement itself would be totally defeated. Therefore, I am in full agreement with the observations made by the learned single Judges of this Court in their respective decisions cited supra. Accordingly, the writ petition is allowed and the impugned order is set aside and the respondents are directed to reimburse the petitioner the amount claimed by him within a period of eight weeks from the date of receipt of a copy of this order. No costs.