
(2013) 12 P&H CK 0162
In the Punjab And Haryana At Chandigarh
Case No : C.W.P. No. 3617 of 2009 (O and M)

Anoop Singh Jain

APPELLANT

Vs

State of Haryana and Others

RESPONDENT

Date of Decision : 06-12-2013

Acts Referred:

Citation : (2014) 2 SCT 300

Hon'ble Judges : Ajay Tewari, J

Bench : Single Bench

Judgement

Ajay Tewari, J.—By this writ petition, the petitioner claims medical reimbursement of expenses incurred by him in kidney transplantation in Lahore (Pakistan). Admittedly, the petitioner was a patient of chronic renal failure. None of his relatives, as specified in the (sic)gan(sic)splantation (sic) Act, was ready to donate a kidney for him. He consequently found a donor in Pakistan (where no such restriction is there as in India) and went to Lahore and got the kidney transplanted by incurring a total expenditure of Rs. 9,56,000/- odd on the treatment. On return, he claimed re-imburement which was declined to him on the ground that treatment from abroad cannot be reimbursed. Consequently, the present writ petition was filed.

2. The petitioner has restricted his claim only to the reimbursement of expenses at PGI/AIIMS rates. In reply to this, again the stand taken by the respondents is that treatment from abroad cannot be reimbursed. Under the policy of medical reimbursement followed by the State of Haryana, there are three situations envisaged. The first is where an employee gets treatment from a government hospital, he is entitled to full medical re-imburement. The second situation is where an employee gets treatment from a government approved hospital, he gets re-imburement at PGI/AIIMS rates plus 75% of the remaining amount charged by such an approved hospital. The third situation deals with treatment from an unapproved hospital. As per the policy, if an employee gets emergency treatment from an un-approved hospital (and that treatment is certified to be an

emergency treatment by the Civil Surgeon), he is entitled to reimbursement at PGI/AIIMS rates. In Smt. Shail Bala Mittal v. The State of Haryana and Ors., passed in CWP No. 10745 of 2007, decided on 19.02.2009, this Court further extended the re-imbursement at PGI/AIIMS rates and held that even if a person gets treatment from an unapproved hospital and the same has not been certified as emergency but is otherwise a necessary treatment, such an employee would be entitled to reimbursement at PGI/AIIMS rates. The said judgment has become final as no appeal has been filed.

3. It is not disputed that in another Division Bench decision of this Court in Mahipal Singh Vs. State of Haryana and Others, , it was held as follows:--

8. xx xx xx

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.

4. In my considered opinion, the present case would be covered by the decisions in Mahipal Singh Vs. State of Haryana and Others, . It is not disputed that the petitioner was not able to get this life saving surgery done in India, then reimbursement to him at PGI/AIIMS rates cannot be denied. Additionally, on 22.10.2013, the following order was passed:- Learned Addl. A.G. states that the facts of the present case are different from those of CWP No. 5715 of 2009 and, therefore, this case should be decided separately. Learned counsel for the petitioner states that he has no objection but in the other case there were two affidavits dated 19.08.2013 and 12.09.2013 which were filed by the respondents and which would help the petitioner in the present case. Registry is directed to place the photocopies of those affidavits in this petition also.

Adjourned to 06.12.2013.

Thereafter, affidavit of Shri P.K. Chaudhary, Chief Secretary to Government of Haryana filed in CWP No. 5715 of 2009 has been placed on as per the said affidavit, even on 14.8.2013 medical reimbursement of the husband of Smt.

Veena Eagalton, IAS (Retd) was sanctioned to the tune of Rs. 4 lacs odd. In the circumstances, I do not consider the stand of the State to be justified or equitable in rejecting the claim of the present petitioner. Consequently, this writ petition is allowed. The respondents are directed to grant medical reimbursement to the petitioner at PGI/AIIMS rates. Let necessary exercise be conducted and payment be made to him within three months from the receipt of a certified copy of this order failing which the petitioner would be entitled to recover the same with interest @ 8% p.a. from the date he submitted the bills till the date of payment. No order as to costs.