

(2009) 08 MAD CK 0303

In the Madras High Court

Case No : Writ Petition No. 35634 of 2007 and M.P. No. 1 of 2007

B. Ramalingam

APPELLANT

Vs

The Director of Elementary Education and The District
Elementary Educational Officer

RESPONDENT

Date of Decision : 06-08-2009

Acts Referred:

Citation : (2009) 08 MAD CK 0303

Hon'ble Judges : V. Dhanapalan, J

Bench : Single Bench

Advocate : M. Suresh Viswanath, for the Appellant; V.R. Thangavel, AGP, for the Respondent

Judgement

V. Dhanapalan, J.—By consent of the learned Counsel for the parties, this Writ Petition itself is taken up for final disposal.

2. The prayer in the Writ Petition is for a mandamus directing the respondents to immediately release the petitioner's wife's medical expenses to the petitioner as per their sanctioning orders dated 31.3.2001 and 24.5.2001.

3. The brief facts leading to the facts of this case are set out hereunder:

(i) The petitioner's wife was working as a Teacher in the Panchayat Union Middle School, Melur. While she was in service, she suffered from Cancer and undergone extended simple MASTETOMY treatment at G.K.N. Memorial Hospital, Coimbatore on 16.11.1996 and also had post operation radiotherapy and chemotherapy and thereafter she died on 16.2.1997. For the above medical treatment, they have incurred medical expenses for Rs. 22,922.17. Hence the petitioner claimed this amount as a legal heir of his wife.

(ii) A claim has been made to the second respondent within time. It was considered and the second respondent recommended the amount to be disbursed in his proceedings in R.C. No. 1447/132/96 dated 24.5.2001 and that

proposal has been sent to the Treasury Department. However, it has been dragged on for the past six years. Therefore, as there is no action on the part of the respondents, the petitioner prayed for the above relief and filed this Writ Petition.

4. The respondents have filed counter and stated that the wife of the petitioner Tmt. B. Seetha, who was working as a Teacher in Panchayat Union Middle School, Melur suffered from Breast Cancer and undergone a specialized surgery in Kuppusamy Naidu Hospital, Coimbatore on 16.11.1994 and for that treatment, they incurred medical expenses for Rs. 22,922.17, for which an application for the medical aid to the second respondent has been submitted on 21.11.1995. According to the respondents, it is true that the application was scrutinised, a sum of Rs. 17,192/- was sanctioned by the second respondent in his proceedings dated 24.5.2001 and a proposal was sent to the Special Commissioner and Commissioner of Treasuries and Accounts, Chennai for the payment of medical assistance to the petitioner.

5. The second respondent, namely District Elementary Educational Officer, Coonoor is competent to sanction the medical assistance to the petitioner and the necessary proposals had been sent to the Special Commissioner and Commissioner of Treasuries and Accounts, Chennai. The Special Commissioner returned the proposal in his proceedings dated 4.3.2005 stating that the individual has not made the claim within 60 days from the date of discharge from the hospital. The claim could not be admitted as instructed in Government Letter No. 57995/Sal/99-1 dated 10.10.1999. It is admitted in the counter that the petitioner's wife had undergone a surgery on 16.11.1994 and discharged from the hospital on 4.1.1995. She filed her representation for medical assistance on 21.11.1995 well after the 60 days of the discharge. Therefore, the petitioner's claim was not considered and they prayed for the dismissal of the Writ Petition.

6. In the above background of pleadings, I have heard Mr. M. Suresh Viswanath, learned Counsel for the petitioner and Mr. V.R. Thangavel, learned Additional Government Pleader for the respondents.

7. The foremost contention of the learned Counsel for the petitioner is that the petitioner's wife had undergone surgery and incurred the medical expenses for which a claim has been made and the second respondent, who is the competent authority has also sanctioned the amount. But, till date, it is not paid. He would further contend that the circumstances under which the treatment was undergone and the claim was made could be seen by the respondents. Even after the recommendation was made on 24.5.2001, till date, there is no payment and therefore a direction is necessary.

8. In support of his contention, the learned Counsel for the petitioner relied upon a decision of this Court in E. Ramalingam Vs. The Director of Collegiate Education and The Regional Joint Director of Collegiate Education, Tiruchirapalli Region, .

9. On the other hand, the learned Additional Government Pleader would contend

that it is true that the petitioner's wife had undergone the surgery on 16.11.1994 and discharged from the hospital on 4.1.1995. However, the application was filed on 21.11.1995, after the stipulated time for making a claim.

10. In this case, the petitioner's wife was a Teacher. She had suffered Breast Cancer and undergone surgery on 16.11.1994 and incurred medical expenses for Rs. 22,922.17. However, a sum of Rs. 17,192/- was sanctioned by the second respondent in his proceedings dated 24.5.2001. All the above facts are admitted and the only reason for rejection of the claim appears to be that the claim was made beyond the time prescribed in the Government Letter.

11. In a similar circumstances, in the decision cited supra, this Court held as follows:

Insofar as the belated claim, I am of the considered view that the petitioner was admitted in the hospital on 7.4.2004 due to heart attack and he underwent PTCA Stenting on 22.4.2004 and he was discharged on 25.4.2004 at the fag end of the academic year. Thereafter, he was involved in the admission process in the college till the month of June, 2004. For the said reason, he could not make the claim immediately and has made the same on 19.7.2004 i.e. after a delay of 23 days. In my opinion, in matters like this, the time limit prescribed cannot be strictly construed as the Government Order is only a beneficial executive order in favour of those who are entitled to claim medical reimbursement. Denying such benefit purely on technical ground of delay, in my view, would be denying the very right to which such persons are entitled to claim the benefit of the Government Order. Moreover, I am convinced with the reason adduced by the petitioner for not making the claim in time.

12. In the light of the above decision and looking into the circumstances under which the petitioner's wife had undergone the treatment and incurred medical expenses, the claim was made and the sanction also accorded on 24.5.2001, it may not be proper for the respondent to keep the amount without disbursement. Therefore, considering the above circumstances and for the treatment of the petitioner's wife and he had incurred medical expenses, I am of the considered opinion that the first respondent is to be directed to disburse the amount. Accordingly, the first respondent is directed to disburse the amount to the petitioner as sanctioned by the second respondent in his proceedings dated 24.5.2001 within a period of six weeks from the date of receipt of a copy of this order.

13. The Writ Petition is disposed of accordingly. No costs. The connected Miscellaneous Petition is closed.