

(1993) 04 AHC CK 0089

In the Allahabad High Court

Case No : Civil Misc. Writ Petition No. 16597 of 1984

Baldeo Prasad Srivastava

APPELLANT

Vs

State of U.P. and Another

RESPONDENT

Date of Decision : 06-04-1993

Acts Referred:

Citation : (1993) 3 AWC 1342

Hon'ble Judges : R.A. Sharma, J

Bench : Single Bench

Advocate : Dhananjai Prasad and M.S. Srivastava, for the Appellant;

Final Decision : Allowed

Judgement

R.A. Sharma, J.—In May, 1976 the Petitioner, who was at that time posted as Deputy Jailor in Central Jail, Naini, Allahabad, suffered heart attack and was admitted in M. L. Medical College, Allahabad for treatment. The doctors of the Medical College referred the Petitioner's case to All India institute of Medical Sciences, New Delhi (hereinafter referred to as the institute) for treatment and implantation of pace maker. The Petitioner was accordingly admitted in the institute where he was treated and pace maker was implanted, which was purchased by the Petitioner out of his own funds. After recovery he made an application before the Government of U.P. for reimbursement of the amount spent by him in Delhi in his treatment and purchase of pace maker and medicines. Petitioner's application has been rejected by the Government on the ground that he had not obtained its prior permission (or his treatment outside the State of U.P. it is against this order that this writ petition has been filed by the Petitioner. Prayer for writ of mandamus for reimbursement of the amount spent by him in his treatment in Delhi, has also been made.

2. I have heard the learned Counsel for the Petitioner and learned Standing Counsel.

3. It is not disputed that the Petitioner suffered a heart-attack and he was sent

to the institute for treatment and implantation of pace maker by M. L. N. Medical College, Allahabad it is also not disputed that the pace maker, which was implanted; was purchased by the Petitioner out of his own funds and further that he spent money in purchasing medicines in the institute. It is admitted to the Petitioner that he did not obtain prior permission from the Government of U. P. " for his treatment and implantation of pace maker in the institute, which is outside the State of Uttar Pradesh.

4. in view of the provisions of U.P. Government Servants (Medical Attendance Rules, 1946 thereafter referred to as the Rules; a Government servant is entitled to medical attendance by authorised medical attendant free of charge. Rule also provide for reimbursement of the amount spent by such a service to his treatment under certain conditions By the Government Order dated 4-9-1979 Government servant is entitled to implantation of pace maker and reimbursement of the amount spent in its purchase. It. is true that the above Government Order provides that reimbursement will be permissible if the employee is under treatment in the other hospital with the permission of the Government. Learned Standing Counsel, in this connection, has submitted that the Government is not under any obligation to pay for the medical treatment of a Government servant if he has been admitted in a hospital outside the State of U.P. without its prior permission Normally permission of the Government, for treatment outside the State of U.P. should be obtained by the Government servant, but there are case where it may not be possible to obtain prior permission of the Government, because of urgency and delay in treatment may be dangerous to the life of the: patient. Permission of the Government for treatment outside the State is not granted merely on asking as the process is both (sic) and (sic) In urgent cases delay in treatment may cost life (sic) it will be impossible for him to obtain prior permission of the Government for treatment outside the State. Cases of heart-attack, cancer, (sic) many other serious diseases require (sic) treatment by expert in such cases to insist upon (sic) permission of the Government is not only impracticable but (sic) reimbursement of the amount spent by the Government servant in medical treatment cannot be. refused on the ground of (sic) of prior permission of the Government. Of course. reimbursement cannot be granted merely on asking. Government has to be satisfied that the case of an employee was referred for treatment by a reined medical Institution, like Medical College; or by authorised medical attendant and that the ailment from which he was suffering was such that any delay in the treatment could have cost his life and further that the amount which he claims to have spent is really the amount which was spent by him in his treatment. If on these points the Government is satisfied, it is obligatory on is to reimburse the amount, spent by the employee in his treatment and it is not open to it to refuse it on the ground of want of its prior permission.

5. In the instant case there is no factual controversy. As mentioned hereinbefore the Petitioner's case was referred to the institute by Medical College, Allahabad, which is constituent college of Allahabad University and is maintained by the

State Government, and in pursuance thereof he was admitted and was treated in the institute and was implanted pace maker. He is, as such, entitled to reimbursement of the amount spent by him in his treatment, including purchase of pace maker and medicines.

6. The writ petition is allowed with costs, The impugned order dated 25-8-1984 is quashed, The Government of U.P. is directed to reimburse the amount spent by the Petitioner in his treatment and purchase of pace maker and medicines, with interest at the rate of Rs. 12/ percent per annum. The interest shall be calculated from January 1977 and the whole amount including the interest shall be paid to the Petitioner within a period of three months from the date of presentation of certified copy of this order.