
(2008) 01 P&H CK 0071
In the Punjab And Haryana At Chandigarh

Baljinder Kaur

APPELLANT

Vs

State of Punjab and Others

RESPONDENT

Date of Decision : 24-01-2008

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2008) 2 PLR 601

Hon'ble Judges : Rakesh Kumar Jain, J; Mehtab S. Gill, J

Bench : Division Bench

Final Decision : Allowed

Judgement

Rakesh Kumar Jain, J.—Smt. Baljinder Kaur, widow of Late Sh. Surjit Singh, has filed the present writ petition under Article 226 of the Constitution of India, for issuance of a writ in the nature of Certiorari, for quashing the impugned memo dated July 06, 2007, whereby medical reimbursement claim of the petitioner on account of death of her husband due to cancer was allegedly declined and also for a writ in the nature of mandamus directing the respondents to make the payment of the amount of Rs. 50,462/- on account of medical reimbursement for the treatment of her husband of his ailment of cancer from Mohan Dai Oswal Cancer Treatment and Research Foundation, Ludhiana and also from Deepak Hospital, Ludhiana, alongwith interest @ 18% p.a.

2. In brief, the facts of the case are that the petitioner's husband, namely Surjit Singh, served in the department of Soil Conservation, Punjab since October 30, 1970 and retired as Surveyor from the Office of Deputy Soil Conservation Officer, Moga on May 31, 2004. After his retirement, Surjit Singh suffered from cancer (Rectum Growth). He remained admitted in Deepak Hospital, from September 30, 2005 to October 06, 2005 and thereafter in Mohan Dai Oswal Hospital from October 11, 2005 to October 06, 2005 and thereafter in Mohan Dai Oswal Hospital from October 11, 2005 to October 15, 2005, but unfortunately he died on October 15, 2005 in the said hospital. The petitioner had to incur an expenditure of Rs. 50,462/- on the treatment of her husband. In May, 2006, she

submitted medical reimbursement bill to the respondents for the said amount along-with required Essentiality Certificates. Claim of the petitioner was processed by respondent No. 2, but vide his letter dated July 06, 2007, the petitioner was intimated that the amount incurred on the medical treatment cannot be reimbursed as her claim has been returned by the Chief Soil Conservator, Punjab. According to the petitioner, she made various requests to get her grievance redressed and ultimately, served a legal notice, but to no effect. Hence, this writ petition.

3. On notice of motion, respondent Nos. 1 to 3 filed their joint written statement by raising only one objection that the bills have not been submitted in time as per Govt. instructions and admitted that medical claim of Rs. 50,462/- put up by the petitioner was received in the office, but it was pleaded that the same was submitted in the office of Divisional Soil Conservation Officer, Faridkot on July 12, 2006 (not in May, 2006), which was late by nine months and as per Punjab Services (Medical Attendant), Rules, 1940, amended from time to time, final claim for reimbursement of medical charges by the Government Employees in respect of particular spell of illness should ordinarily be preferred within six months from the date of completion of treatment shown in the last essential certificate issued by the authorised Medical Officer concerned.

4. We have heard learned Counsel for the parties and with their assistance have perused the records. Learned Counsel for the petitioner has relied upon Annexure P-1 which are instructions relating to grant of free medical facilities to pensioners and their wives/husbands. Husband of the petitioner was a pensioner and is fully covered by these instructions, which provide that the Punjab Government pensioners be allowed full medical reimbursement. Reliance was further placed upon a decision of this Court in the case of Rajwant Kaur v. State of Punjab 2002 (1) R.S.J. 183, in which in similar circumstances, medical reimbursement claim was declined on the ground of limitation that it should have been filed within six months, though, same was filed after one year and two months. In the reported case, not only the alleged instructions of submission of claim within six months was held to be irritation, illogical and oppressive, but were also struck down. It was further held as under:

At the most, the petitioner can be deprived of the interest part of the prayer. The reimbursement of medical bills is not an act of bounty or charity on the part of the State Government or Union of India. As employee is entitled to the medical reimbursement as per the rules and such claim should be sympathetically viewed by the dealing Assistant and Officer. Unnecessary objections raising the miseries of the claimant should be avoided. By this attitude alone the images of the government can improve. Negative approach should be curtailed and curbed in such like matters.

5. It has also been pleaded by the petitioner that due to the death of her husband, she was in a state of shock and was not in a position to immediately submit the claim) for reimbursement.

6. We do not agree with the objection taken by the respondents while submitting their written statement and hold that question of limitation does not arise in the case in hand in the prevailing circumstances. We also find that the decision rendered in Rajwant Kaur's case (supra) is fully applicable in the present case. Moreover, learned Counsel for the respondents could not cite any judgment to the contrary.

7. Resultantly, we allow this writ petition, quash memo dated July 06, 2007 and direct the respondents to reimburse the medical claim of the husband of the petitioner as submitted by her vide Annexures P-3 and P-4 within three months from receipt of a copy of this order, failing which, the petitioner shall be entitled to interest @ 12% p.a. No order as to costs.

Sd/- Mehtab S. Gill, J.