(2016) 02 P&H CK 0011

In the Punjab And Haryana At Chandigarh

Case No : CWP No. 5378 of 2013

Bhagwat Prasad Sharma — APPELLANT

Vs

State of Haryana and others — RESPONDENT

Date of Decision : 23-02-2016

Acts Referred:
Constitution of India, 1950 — Article 14, 226

Citation : (2016) 2 SCT 827

Hon'ble Judges : Ritu Bahri, J.

Bench : Single Bench

Advocate : N.S. Panwar, Advocate, for the Appellant; Ravi Pratap Singh, AAG, Haryana, for the Respondent

Final Decision : Dismissed

Judgement

Ritu Bahri, J. - Petitioner has approached this Court praying for issuance of writ in the nature of certiorari to quash the recommendation and order of sanction (P-5 and P-6) and further prayer is for issuance of direction to the respondents to reimburse the complete amount spent by the petitioner on medical treatment of his wife to the petitioner excluding any deduction except the amount already reimbursed.

2. Brief facts that would require notice are that petitioner retired from the department on 31.07.2011 from the post of Quality Control Inspector (HAS II) on attaining the age of superannuation. On 04.01.2011, his wife became suddenly serious and the daughter of the petitioner got her mother admitted in Fortis Hospital Noida and she remained admitted in hospital from 04.01.2011 to 10.02.2011 as an indoor patient. Unfortunately she died on 10.02.2011 in the hospital. An amount of RS. 1,041,840.95 was incurred by the petitioner on the treatment of his wife, vide bill issued on 10.02.2011 (P-2).

3. The daughter of the petitioner was having a mediclaim policy No. 500300/48/10/41/00000083 dated 14.12.2010 from Medi Assist India TPA Pvt.

Ltd through her company and on claim made by the daughter of the petitioner, the Insurance Company made a payment of RS. 2,69,505/- through cheque Mno. 797764 dated 26.04.2011 plus paid taxes of RS. 29.945/- (total RS. 2,99,450/-). Thus, the petitioner has paid RS. 7,42,390/- from his own pocket to the Fortis Hospital. Copy of the claim settlement dated 27.04.2011 is Annexure P-3.

4. Thereafter, petitioner applied for medical re-imbursement as per Rules from his department and forwarded the application along with all required documents on 09.3.2011 (P-4). Respondent No. 2 then sent a letter dated 21.12.2012 (P-5) to respondent No. 1 recommending that the bill amount is worked out as per the rates of PGI and it has come to RS. 3,77,632/- further a deduction of RS. 2,69,505/- has been made, as his amount has been paid by the Medi Assist India TPA Pvt. Ltd. Insurance Company.

5. Accordingly, respondent No. 1 accorded sanction to a meager amount of RS. 1,08,127/- vide order dated 21.01.2013 (P-6).

6. Respondent No. 3 filed its reply taking a stand that neither the petitioner applied for* change of option nor produced chronic disease certificate.

7. In the written statement filed by respondent Nos. 1, 2 and 4, the stand taken is that Fortis Hospital Noida is not on the panel of hospitals approved by Haryana Government and accordingly, petitioner was given an amount of RS. 1,08,127/-, after adjustment of the amount already given to him under the mediclaim policy. Further vide letters dated 13.08.2013 and 29.08.2013 (R-4 and R-5), petitioner was requested to supply the details of payment made by the Insurance Company against various heads, so that he may be suitably paid and any head of medical bills may not remain unpaid or to avoid double payment against such head. But the petitioner neither attended the office nor supplied the requisite information.

8. The question for consideration before this Court is that whether the claim received by the petitioner under an Insurance Policy, would be deductible from the amount payable by the respondents, by way of medical reimbursement and further the petitioner would be reimbursed the amount as per PGI rates despite the fact that the wife of the petitioner was suffering from Chronic disease, which finds mentioned vide instruction dated 08.06.2005.

9. This issue has come up for/consideration before this Court in a case of Dr. H.C. Gupta v. State of Punjab and another, passed in CWP No. 426 of 2012, decided on 16.11.2012 whereby the writ petition was allowed and direction was given to the respondents to reconsider the case of the petitioner afresh but it was not left open for the respondents to deduct amount already pad by the Insurance Company. Reference has been made to a judgment passed by a Division Bench of this Court in CWP No. 12323 of 2007 titled as Som Nath Sachdeva v. HVPNL and another, decided on 04.09.2008, wherein it has been held that :-

"The aforementioned principle has also been followed and applied in the case of Lal. Dei v. Himachal Road Transport Corporation, (2007) 8 SCC 319. In that case

the amount of family pension received by the family of the deceased was held to be not deductible while granting compensation for death in a motor accident. By parity of reasoning, it appears that there is no co-relation between the two amounts because the amount of loss and gain of one contract cannot be made applicable to the loss and gain of another contract. Therefore, we are inclined to answer the question in the negative. Accordingly, it has to be held that the amount paid under the insurance policy would not be deductible from the amount payable by the respondent department. However, it would be subject to one condition that both the amount if clubbed together would not exceed the total bill."

10. Reference at this stage can further be made to a Division Bench judgment of this Court passed in a case of Buta Ram v. State of Haryana and others, 2006 (6) SLR 228 wherein wife of the petitioner taken for emergency cancer treatment to hospital and reimbursement denied alleged that Hospital is not recognised by Government of Haryana. This Colirt allowed the writ petition and held that in case of saving a human life at emergency, attendant is not expected to look into list of approved hospitals. Availing treatment from hospital which is not recognised by Government, in emergency, will not debar the Government employee or his department to claim, reimbursement as per the Rules.

11. In the present case, the wife of the petitioner was suffering from chronic disease, which finds mentioned in instruction dated 08.06.2005 and further as per instruction dated 28.05.2003, it has been stated that full payment be reimbursement on the treatment of chronic disease.

12. Thus, once the wife of the petitioner was suffering, from chronic disease, he does not have to supply the information again to the respondents. A certificate was also issued by Dr. Sanjay K. Saxena that the wife of the petitioner is diagnosed with Parkinsonism with NMS with Dyselectrolytemia with siezures with septicemia with colistine induced epidermal with HTN (P-1 collectively).

13. For the reasons recorded above and applying the ratio of the above - mentioned judgments, recommendation and order of sanction (P-5 and P-6) are hereby quashed. A direction is given to the respondents to reimburse the complete amount to the petitioner spent by the him on medical treatment gHiis wife excluding any deduction except the amount already reimbursed to the petitioner, it would not be open for the respondents to deduct amount of RS. 2,69,505/- that already stands paid by the Insurance Company to the petitioner under the Medi-claim policy purchased by her daughter. This exercise shall be completed within a period of two months from the date of receipt of certified copy of this order.

