

(2016) 10 P&H CK 0059
In the Punjab And Haryana At Chandigarh
Case No : CWP No. 2539 of 2015

Chaman Lal Sehgal

APPELLANT

Vs

State of Haryana

RESPONDENT

Date of Decision : 03-10-2016

Acts Referred:

Constitution of India, 1950 — Article 227, Section 226

Citation : (2016) 4 LawHerald 3333 : (2017) 2 SCT 15

Hon'ble Judges : Mr. Kuldeep Singh, J.

Bench : Single Bench

Advocate : Mr. Rajesh Hooda, Advocate, for the Petitioner; Mr. Naveen Sheoran, DAG, Haryana, for the Respondent

Final Decision : Dismissed

Judgement

Mr. Kuldeep Singh, J. (Oral) - The petitioner by way of this writ petition filed under Articles 226/227 of the Constitution of India seeks issuance of writ of Certiorary for quashing of letter dated 21.11.2013 (Annexure P-7) vide which respondent No. 3-Principal Chief Conservator of Forest (Wildlife) and Chief Wildlife Warden, Van Bhawan, Panchkula, Haryana, has declined the medical reimbursement claim of the petitioner on account of treatment of his wife for knee replacement.

2. The necessary facts for the disposal of the present case are that the petitioner was working as Deputy Chief Wild Life Warden, Van Bhawan, Panchkula, Haryana. His wife-Uma Sehgal, was suffering from pain in both the knees for two year i.e. in the year 2009-2010 and had been visiting different hospitals for the treatment of the same. On 12.10.2012, the petitioner along with his wife went to Delhi to visit their son. On 15.10.2012, during their visit to son, the wife of the petitioner started having severe pain in both of her knees and was taken to Primus Super Specialty Hospital, New Delhi which is not on the list of Hospitals approved by the Government of Haryana at that time and the surgery for knee replacement of both of her knees was performed in which medical expenses to the tune of Rs. 5,67,065/- were incurred. The petitioner submitted the medical

bills for the purpose of reimbursement. In response thereto, he was asked to produce emergency certificate issued by the Chief Medical Officer. An "Essentiality Certificate" issued by the Primus Super Specialty Hospital, New Delhi had been filed by the petitioner.

3. It comes out that the respondent-department has declined the reimbursement claim of the petitioner stating that the said hospital in which the knee replacement surgery was performed is an un-approved hospital as per the instructions of the Government of Haryana and that the said surgery was not done in an emergent situation.

4. Reliance by the petitioner has been placed on a case of Sh. S.D. Bhambri, IAS (Retd) but the said case is also stated to be on different footing.

5. The learned counsel for the respondents submitted that this entire treatment i.e. surgery of knee replacement from an unapproved hospital was planned, therefore, the reimbursement was rightly declined.

6. The reimbursement policy of the Haryana Government (Annexure P-8) shows that in case of treatment from unapproved hospitals, the reimbursement for the treatment taken in an "emergency" will be allowed equal to PGI, Chandigarh rates with the approval of the Finance Department. It is further provided that Head of the department in consultation with concerned Civil Surgeon is competent to certify an emergency.

7. In the present case the hospital namely Primus Super Specialty Hospital, New Delhi was admittedly an unapproved hospital at the time of surgery. Now, the question would arise whether the treatment/surgery of knee replacement was taken in emergency or not?

8. The fact is that the wife of the petitioner was suffering from knee problem for two years. Thereafter, the petitioner along with wife visited New Delhi to meet their son. On account of severe pain in the knees, the wife of the petitioner was taken to an unapproved hospital for treatment on 16.10.2012 where the operation/surgery of knee replacement was done on the same date.

9. Learned counsel for the petitioner has relied upon the case of Sh. S. D. Bhambri, IAS (Retd.). The information obtained under RTI shows that it was a case of "Inguinal Hernia" and not that of knee replacement of surgery. The said treatment of Sh. S.D. Bhambri, IAS (Retd.) it is the case of "Inguinal Hernia" and has been misinterpreted as case of knee replacement.

10. Learned counsel for the petitioner has relied upon the judgement of the single bench passed in CWP No. 10745 of 2007 dated 19.02.2009 titled as Shail Bala Mittal v. State of Haryana and others wherein while relying upon the judgment of Division Bench of this Court passed in Mahipal Singh v. State of Haryana and Others; 2008 (2) SCT 592, medical reimbursement for knee replacement was allowed. In the said case, the retired employee has fell down and had been taken to the hospital. It is not so in the present case.

11. The judgement of Mahipal Singh v. State of Haryana (Supra) goes to show that in the said judgement it was the case of "Blood Cancer" therefore, the Division Bench of this Court has held that the treatment was performed under emergency situation since her condition was critical as she was suffering from blood cancer.

12. The learned counsel for the petitioner has also relied upon the authority of Tej Ram Yadav v. State of Haryana and others passed in CWP No. 130 of 2011 decided on 25.07.2013 wherein relying upon the judgment of Shail Bala Mittal's case (Supra), knee replacement was allowed but the facts of that case were entirely different.

13. Similarly, reliance has also been placed on the judgement of this Court passed in CWP No. 15875 of 2011 decided on 21.02.2013 titled as U.K. Sharma v. State of Haryana wherein on relying upon the case of Sh. S.D. Bhambri, IAS (Retd.), medical reimbursement of knee replacement was allowed, which fact is controverted by record of the present case as Bhambri's case was not of knee replacement.

14. In all of the judgments, there is the treatment under the different emergent situation, therefore, it cannot be generalised.

15. In this case, the wife of the petitioner was suffering from knee problem for two years and she herself gone to New Delhi with her husband to visit their son just four days before the surgery and got knee replacement surgery done on the same day when she visited the said hospital. Meaning thereby the whole surgery of the petitioner was planned.

16. It being so no emergency was called for in the present case with regard to the knee replacement surgery. Consequently, there is no illegality and perversity in the impugned order.

17. In view of the above, the present petition stand dismissed.