
(2009) 05 JH CK 0028

In the Jharkhand High Court

Case No : Writ Petition (C) No. 5090 of 2005 And W.P. (C) No. 122 of 2005

Chandeshwar Singh

APPELLANT

Vs

Projects and Development India Ltd. and others

RESPONDENT

Date of Decision : 08-05-2009

Acts Referred:

Citation : (2009) 123 FLR 91

Hon'ble Judges : Dabbiru Ganeshrao Patnaik, J

Bench : Single Bench

Advocate : K.B. Sinha, for the Appellant; Amitabh, for the Respondent

Final Decision : Allowed

Judgement

D.G.R. Patnaik, J.—Since the issues involved in these writ petitions are common, they are taken up together for consideration and disposal by this common order.

2. Heard Sri K.B. Sinha, learned Senior Counsel for the petitioner, and Sri Amitabh, learned Counsel for the respondents and with the consent of the learned Counsel for the parties, these writ petitions are being disposed at the admission stage itself.

3. The petitioners in these applications are aggrieved by the refusal of the respondents to reimburse the medical expenditures incurred by the petitioners for medical treatment. While the claim of the petitioner Chandeshwar Singh [WP (C) No. 5090 of 2005], is for reimbursement of medical expenditure incurred upon himself, the claim of the petitioner Ramdas Roy in WP (C) No. 122 of 2005 is for reimbursement of medical expenditure incurred for treatment of his dependent son.

4. Both the petitioners were employees of the respondent Projects and Development India Limited, Sindri. Under their service conditions, the petitioners were entitled to free medical treatment to be provided by the employer for the employees as well as for their dependent family members and for reimbursement

of the medical expenses incurred by them.

5. The case of the petitioner Chandeshwar Singh is that with prior permission of the departmental head to leave the headquarters, he had gone to Calcutta for visiting his ailing sister. He was accompanied by the son Rahul Kumar, of petitioner Ramdas Roy. While returning from Calcutta, the vehicle in which they were traveling met with a serious road accident. Both the occupants of the vehicle had suffered serious injuries and were rendered unconscious. Nearby villagers promptly removed them to the nearest Government Hospital where after the first-aid treatment, both of them were referred to Calcutta Medical College Hospital. Since there was no vacant seat available in the Calcutta Medical College Hospital, hence on the advice of the attending doctor, both the injured were removed to Calcutta Medical Research Institute nearby where they were admitted as Indoor patients.

After undergoing medical treatment from 17.11.2001 to 7.12.2001, both of them were discharged from the Hospital on advice to attend OPD for routine check-up.

6. Contention of the petitioners is that the Calcutta Medical Research Institute is one of the hospitals recognized by the respondent employer where employees of the respondents may avail medical treatment as indoor and outdoor patients.

After discharge from the hospital, both the petitioners had obtained permission from the respondent employee for availing their routine check-up at SSKM Hospital, Calcutta, which was also one of the hospitals recognized by the respondent company, where the employees of the Sindri office of the company were permitted to obtain medical treatment. Upon resuming duty, the petitioner Chandeshwar Singh had submitted his medical bill for Rs. 2,32,777/- for reimbursement. Likewise, petitioner Ramdas Roy had also submitted medical bill for Rs. 87, 211/- claiming reimbursement of the expenses incurred by him for medical treatment of his dependent son.

The claim of both the petitioners for medical reimbursement was though assessed by the concerned officers of the respondent company, but by the impugned letters (Annexures 5 and 6 respectively), their claim for medical reimbursement was refused.

Later, upon the petitioners opting for voluntary retirement under the VRS floated by the respondent company, both the petitioners were relieved from their duties. The petitioner Chandeshwar Singh was relieved from 28.8.2003 while petitioner Ramdas Roy was relieved from 3.5.2003.

7. Assailing the impugned orders of the respondents' refusal to reimburse the medical expenditures incurred by the petitioners learned Counsel for the petitioners would submit that such action on the part of the respondents is arbitrary, illegal and in violation of the rights accrued to the petitioners under the service conditions during the tenure of their service.

Learned Counsel would explain that the claim for medical reimbursement

demanding by the petitioners was basically on the ground that the period for which claim was raised related to the period between 16.11.2001 till the date prior to the release of the petitioners from duty under the voluntary retirement scheme, i.e. during the period when jural relationship between the petitioner and the respondent company did exist.

8. The respondents, in the counter affidavit, have denied and disputed the claim of the petitioners on the ground that both the petitioners having opted for voluntary retirement and having received all the monetary benefits under the voluntary retirement scheme, the claim for reimbursement of medical expenses cannot be allowed and since on the date of filing of the writ petition, admittedly, the jural relations had ceased coexist between the petitioners and the respondents, these applications are not itself maintainable for the reliefs sought for.

Further stand taken is that even otherwise, the claim for medical reimbursement of the petitioners cannot be accepted in view of the fact that they had not obtained medical treatment, nor incurred medical expenses at the hospital recognized by the employer for the employees of PDIL Sindri.

9. In support of the stand taken by the respondents, learned Counsel for the respondents would refer to and rely upon the judgment of the Supreme Court in the case of A.K. Bindal and Another Vs. Union of India (UOI) and Others, , and also on the judgment in the case of HEC Voluntary Retired Employees Welfare Society v. HEC Ltd. 2006 (109) FLR 355 (SC).

10. On the other hand, learned Counsel for the petitioners while distinguishing both the above judgments of the Supreme Court would refer to and rely upon the judgment of this Court in the case of Md. Maniruddin v. BSRTC 2001 (2) Jhr. C.R. 203 and another judgment in the case of Smile v. State of Jharkhand 2009 (1) JLR 193.

11. From the rival submissions the admitted facts which emerge are that both the petitioners were employees of the respondents PDIL Sindri and were posted at the office of the respondents at Sindri. Admittedly, the petitioner Chandeshwar Singh after obtaining permission to leave the headquarters for the purpose of visiting his ailing sister, had gone to Kolkata, accompanied by the son of petitioner No. 2. Both of them suffered serious injuries in a road accident and in their state of unconsciousness they were removed by the villagers to the nearest hospital where after the first aid, the doctors had referred them to the medical college hospital at Calcutta and from there to the Calcutta Medical Research Institute.

12. The petitioners have specifically explained that the accident occurred on 17.11.2001 and medical treatment was obtained by them till 7.12.2001, followed by regular medical check-up at the Out patient Department of the Hospital. Both the petitioners have specifically asserted that Hospital where they were provided medical treatment as injured patients and the Hospital where they were provided

medical treatment as Out Door Patients are Hospitals recognized by the employer where employees of the respondent PDIL are permitted, to avail medical treatment. This claim has not been denied and disputed by the respondents specifically though by a vague and general statement, the respondents would attempt to justify their refusal to reimburse the medical bills of the petitioners on the ground that the expenses for medical treatment can be reimbursed only after such treatment is availed by the employees at Central Government or State Government Hospitals. The circumstances under which the petitioners had to be removed promptly to the hospital refuted by them in their state of unconsciousness for the purpose of saving their lives, cannot be ignored and the respondents cannot deny their liability merely stating that medical treatment availed by the petitioners was not at the hospital recognized by the respondent employer. Admittedly, under service conditions of the petitioners, both were entitled for medical reimbursement for medical expenses incurred for themselves as also for their dependent family members. The claim advanced by the petitioners relate to the period when they were in continuous service and were guided by the service conditions during the subsistence of jural relationship between them and the Employer.

The claim for medical reimbursement was submitted by the petitioners much prior to their opting for voluntary retirement under the scheme floated by the respondents.

13. The judgment of the Supreme Court in the Case of A.K. Bindal (supra) and the HEC Voluntary Retired Employees Welfare Society (supra) are not applicable to the facts of the case in hand. Though refusal of the employer of the claim for monetary benefits advanced by the employees after they had opted for voluntary retirement under the VRS scheme was upheld by the Supreme Court, but it was in the context of the claim for payment of monetary benefits on revision in the scale of pay. The principles laid down by the Supreme Court in both the judgments are that once an employee opts to retire under the VRS scheme in terms of the contract, he cannot raise claim for higher salary or arrears of payment on the basis of revised pay scales unless the statute or the policy formulated in that behalf by the employer provides otherwise.

14. In the present case, right to claim for medical reimbursement had accrued to both the petitioners under the conditions of their service which applied prior to their opting under the voluntary retirement scheme. Both the petitioners had incurred medical expenditures on the belief and expectation that the employer would reimburse the expenditure under the terms of service contract which subsisted at the relevant time. The respondent employer cannot deny the petitioners' claim on the plea that the petitioners having opted for voluntary retirement under the Voluntary Retirement Scheme, nor on the ground that by accepting the entire monetary benefits under the voluntary retirement scheme, it is deemed that the petitioners have waived their claim for medical reimbursement.

15. Both the petitioners are certainly entitled to claim for medical reimbursement. Refusal of the respondent company to accede to their demand for reimbursement is illegal, arbitrary and in violation of principles of natural justice.

16. I find merit in these writ petitions. Accordingly, both these writ petitions are allowed. The impugned orders dated 12.11.2002 (Annexures 5 and 6) passed by the respondents are hereby quashed.

The respondents are directed to pay the amount of medical bills by way of medical reimbursement to both the petitioners respectively. Such payment should be made within two months from the date of receipt/production of a copy of this order. If the payment is not made within the stipulated period, then the same shall carry interest at the rate of 10% per annum calculated from the date when the amount fell due for payment, till the date of final payment.