
(2015) 11 TP CK 0025
In the Tripura High Court
Case No : W.P.(C) No. 147 of 2011

Debasis Chakraborty

APPELLANT

Vs

The State of Tripura and Others

RESPONDENT

Date of Decision : 20-11-2015

Acts Referred:

Citation : (2015) 11 TP CK 0025

Hon'ble Judges : Utpalendu Bikas Saha, J.

Bench : Single Bench

Advocate : S. Lodh, Advocate, for the Appellant

Final Decision : Allowed

Judgement

Utpalendu Bikas Saha, J.—The present petitioner, namely, Sri Debasis Chakraborty, Manager Electrical, in the office of the Senior Manager, Tripura State Electricity Corporation Limited, 132 KV Sub-Station, Garodtilla, Kamalpur, District-Dhalai, Tripura has prayed for quashing the impugned Office Note No. 5 dated 09.04.2010 and impugned letter No. F.13.6(1)/TSECL/95/p-IV(S)/722 dated 20.12.2010 (Annexure-P6 & Annexure-P9) whereby and whereunder, the respondents denied the medical reimbursement towards the treatment of his father on the ground that his father was not referred by the Medical Board for better treatment outside the State, and also to direct the respondents to allow the medical reimbursement for treatment of his father as per the medical bills submitted to the respondents.

2. Heard Mr. S. Lodh, learned counsel appearing for the petitioner and Mr. D.C. Nath, learned counsel appearing for the respondent Nos. 2 to 6. None appears for the State respondent.

3. The brief facts of the case is that the father of the petitioner, Sri, Bishu Charan Chakraborty suddenly fell ill and was admitted as indoor patient in the Tripura Medical College & Dr. B.R. Ambedkar Memorial Teaching Hospital, Hapania, Agartala. After admission, when it was detected that he was suffering from Left

Cerebellar Haemotoma and he was not responding to the treatment, the doctors of the said hospital advised the petitioner and his other family members to take his ailing father outside the State for better treatment and accordingly, he was discharged from the hospital and was taken to Kolkata by air for better treatment.

4. After reaching Kolkata, he was admitted in the Park Clinic, 4, Gorky Terrace, Kolkata-17 as an indoor patient and after thorough check up, it was detected that he was suffering from Left Cerebellar Haematoma with Obstructive Hydrocephalus, and on that night itself, the doctors of Park Clinic, urgently operated him and thereafter he was discharged from the Park Clinic on 23.12.2009.

5. After completion of the treatment of his father, the petitioner submitted the medical bills and T.A. Bills for reimbursement amounting to Rs. 2,01,447/-, in connection with the treatment of his father at Kolkate, in the prescribed form, before the respondent No. 6.

6. On receipt of the same, the respondent No. 6 vide his letter dated 17.02.2010, forwarded the Medical reimbursement bills and the T.A. Bills of the petitioner to the Deputy General Manager, Electrical Division No. VII, Ambassa, supplying a copy to the petitioner.

7. The Deputy General Manager, Electrical Division No. VII, Ambassa, Dhalai District, vide his Note-1 dated 17.03.2010, forwarded the Medical reimbursement bills and the T.A. Bills of the petitioner to the Additional General Manager, Electrical Circle No. V, Ambassa, Dhalai District for approval with a comment that the petitioner is eligible for medical reimbursement as per his pay structure.

8. The respondent No. 4 vide impugned Note-5 dated 09.04.2010, most illegally rejected the claim for Medical Reimbursement Bills and the T.A. Bills of the petitioner. Hence the writ petition.

9. The respondent Nos. 2 to 6 by way of filing counter affidavit contended that the petitioner is not entitled to medical reimbursement for treatment of his father as the father is not included as family member. It is also contended that the father of the petitioner was not referred by the medical board for his treatment outside Tripura. Thus, he is not entitled to any medical reimbursement as claimed. The State respondents by way of filing counter affidavit adopted the contentions made by the respondent Nos. 2 to 6.

10. The petitioner by way of filing rejoinder to the counter affidavit contended that all the entitled employees of the respondent-corporation are getting medical reimbursement bills for treatment of the family members and not only that when the petitioner incurred Rs. 3955/- for treatment of his son, he applied for reimbursement of the same and the respondents corporation vide order dated 19.01.2010 granted medical reimbursement for treatment of his son.

11. The petitioner by way of an application under R.T.I. Act, 2005 wanted to know which Rule is applicable for medical reimbursement for the State

employees. In response to that, the Joint Secretary to the Department of Finance informed the petitioner that the medical reimbursement is admissible to the State Government Employees under Central Services (Medical Attendant) Rules as adopted in the State.

12. Mr. Lodh, learned counsel appearing for the petitioner submits that as per definition of Family, mentioned in the Medical Attendance Rules, family means "a Government servant's wife or husband, as the case may be, and parents, sisters, widowed sisters, widowed daughters, minor brothers, children, stepchildren divorced/separated daughters and stepmother wholly dependent upon the Government servant and are normally residing with the Government servant".

13. In the instant case the father of the petitioner is wholly dependent upon the petitioner and he is also living with him. Thus, the father of the petitioner is a member of the family and for his treatment the petitioner is entitled to medical reimbursement.

14. He further submits that on since earlier occasion, the respondent Nos. 2 to 6 reimbursed the medical bills relating to the treatment of the petitioner's son as a dependent family member, therefore, now they cannot deprive the petitioner of his entitlement for medical reimbursement towards treatment of his father who is also a dependent family member. He further submits that the case in hand is fully covered by the decision of this Court in *Amal Barua Vs. State of Tripura and Others*--> , wherein, this Court taking note of various early decisions of the Gauhati High Court, Agartal Bench as well as the Apex Court held that reference by the Standing Medical Board to a referral hospital itself cannot be a ground for not granting medical reimbursement to him, rather the Government should see whether the employee(patient) took treatment outside the State which is not available in the State of Tripura. In such situation Government should not deny the medical reimbursement of an employee merely on the technical grounds.

15. Mr. D.C. Nath, learned counsel appearing for the respondent Nos. 2 to 6 fairly submits that reference by the Standing Medical Board to a referral hospital is not a sine qua non for depriving a person from getting medical reimbursement. He has also agreed to the contentions made by Mr. Lodh, learned counsel, that the case in hand is covered by the decision of *Amal Barua (supra)*. But according to him, the father of the petitioner is not a member of the family, as there is nothing in the petition that the father of the petitioner is dependent on him.

16. This Court has considered the note and the letter under challenge from which it appears that the prayer for reimbursement of medical bills of the petitioner was rejected only on the ground that his father was not referred by the Medical Board for treatment outside the State of Tripura.

17. This Court has also considered the meaning of family as mentioned in the Medical Attendance Rules. According to the definition of family, father of the petitioner who is wholly dependent upon him is a member of his family and

comes within the definition of family.

18. In *Madan Mohan Bhowmik v. State of Tripura and Others*, (2011) 2 GLR 738 Agartala Bench of the Gauhati High Court held that denial of reimbursement of medical bill to an employee on mere technical ground is the denial of right to life which includes right to health.

19. In *Gouri Sengupta v. State of Assam and Others*, (1993) 3 GLT 601, the petitioner went for treatment of cancer in a private nursing home outside the State of Assam and whose medical bill was not sanctioned on the ground that the private nursing home is not recognized by the State of Assam for the purpose of reimbursement of the medical expenses. The Gauhati High Court taking note of the aforesaid decision of the Apex Court as well as the decisions in other cases decided by the Apex Court directed the respondents therein, to reimburse the medical expenses of the petitioner.

20. In *Harendra Ch. Das v. State of Tripura*, WP(C). 208 of 2008, the Gauhati High Court held, " having regard to the above decision of the Supreme Court in *Surjit Singh (supra)*, I find that the refusal by the State Authorities to reimburse the costs of medical expenses on the ground of not being referred to by the Medical Board cannot be sustained and accordingly, I am of the view that the petitioner is entitled to obtain reimbursement of costs of medical treatment, incurred by him for his medical treatment at Kolkata".

21. In the instant case it is not the case of the respondents corporation that the treatment which was given to the father of the petitioner is available in the State of Tripura and it is also not the case of the respondents corporation in their affidavit that the father of the petitioner is not a member of his family, only they have denied the medical reimbursement for treatment of his father on the ground that he was not referred by the Medical Board for treatment outside the State, which is totally contrary to the decision of this Court in the case of *Amal Barua (supra)*.

22. Admittedly, neither in the Government hospital nor in Government medical college, treatment of cardiac problems is available though at present there is a private hospital where the cardiac treatment is available and for that also, a patient has to wait when a specialist comes from outside. Reference by the Standing Medical Board to a referral hospital itself cannot be a ground for not granting medical reimbursement to an employee for treatment of his family members, rather the Government should see whether the treatment for which medical reimbursement is claimed, is the genuine one or not. There is no doubt that an employee is not entitled to get the medical reimbursement bill beyond the rate prescribed by a referral hospital. In view of the above, the respondent Nos. 2 to 6 are directed to allow the medical reimbursement to the petitioner towards treatment of his father outside the State at the rate of referral hospital and make the payment of the same within a period of 2(two)months from the date of receipt of this order.

23. In the result, the writ petition is allowed, but no order as to costs.