
(2016) 07 P&H CK 0015
In the Punjab And Haryana At Chandigarh
Case No : CWP No. 11214 of 2014. (O&M)

Dr. Deepak Kapur

APPELLANT

Vs

State of Haryana

RESPONDENT

Date of Decision : 12-07-2016

Acts Referred:

Citation : (2017) 1 PLR 136

Hon'ble Judges : Ms. Ritu Bahri, J.

Bench : Single Bench

Advocate : Ms. Anu Chatrath Kapur, Senior Advocate, with Ms. Harsimranpreet Kaur (Simmi), Advocates, for the Petitioner; Mr. Amar Vivek, Addl. Advocate General, Haryana, for the Respondents

Final Decision : Allowed

Judgement

Ritu Bahri, J. - The petitioner is seeking quashing of the decision taken vide letter dated 23.10.2013 (Annexure P-6), whereby medical reimbursement bills of late Mrs. Ved Prabha Kapur amounting to Rs.1,33,597/-, which was continuation of the indoor treatment at PGIMER from 18.04.2012 to 14.08.2012 and thereafter, from 06.12.2012 to 09.01.2013 when she died, have not been reimbursed. Further direction is being sought to be issued to the respondents to reimburse the complete bills in respect of the treatment of aforesaid Ved Prabha Kapur from 19.01.2012 to 09.01.2013.

2. Mrs. Ved Prabha Kapur, mother of the petitioner, retired as Principal, HES-I after distinguished service of the Government of Haryana and was a pensioner of the Government of Haryana vide PPO No.#34825/HR EDU. On 19.01.2012, she developed a medical emergency and was taken to Government Multispeciality Hospital, Sector 16, Chandigarh. She was admitted in the emergency of the said hospital and the doctors advised her to shift as she needed to be put on ventilator. The petitioner contacted some hospitals on phone i.e. PGIMER, FORTIS etc. to enquire about the availability of ventilator, but the ventilator was not available at any of these reputed hospitals. In this regard, she was given a

certificate dated 19.01.2012 (Annexure P-1) by the Medical Superintendent, Government Multispeciality Hospital. Keeping in view the emergency, she was taken to INSCOL Hospital, Sector 34, Chandigarh, where she was put on ventilator and her treatment continued up to 17.04.2012. On account of developing bed sore, she was shifted to PGIMER, Sector 12, Chandigarh, for further treatment as an indoor patient on 18.04.2012. She was discharged on 14.08.2012 for further continuing treatment prescribed by PGI Doctors as an outdoor patient. At residence, she was given 24 hours Oxygen support and the petitioner remained in a constant touch with the doctors at PGI, Chandigarh. During this period, different medicines prescribed by the concerned doctors as well as the surgical dressing had to be provided to the patient daily. This is evident from the discharge slip dated 14.08.2012 (Annexure P-2). On the advice of Dr. S.K. Jindal, Head of Department, Department of Pulmonary Medicine, she was again shifted to PGIMER, Chandigarh on 06.12.2012, where she died on 09.01.2013. Copy of death certificate has been annexed as Annexure P-3. The details of the medical bills submitted by the petitioner are as under:-

Sr. No.	Period	Bill	Total
1.	Bills for treatment at INSCOL Hospital, Sector 34, Chandigarh from 19.01.2012 to 18.04.2012.	Rs.23,03,161.00 + Rs.12,001.50	Rs.23,15,161.50
2.	Bill for treatment at PGIMER from 18.04.2012 to 14.08.2012	Rs.3,92,513.50 + Rs.1797.00	Rs.3,94,310.20
3.	Bills for treatment as outdoor patient from 14.08.2012 to 06.12.2012 in continuation to indoor treatment at PGIMER	Rs.1,33,597.80 + Rs.8068.00	Rs.1,41,665.80
4.	Bills for treatment from 06.12.2012 to 09.01.2013 in PGIMER	Rs.3,14,728.00 + Rs.10,621.00 + Rs.12,696.00	Rs.3,38,045.00
Total		Rs.31,89,193.50	

3. Out of the medical reimbursement claim submitted by the petitioner to the Department of Secondary Education, Government of Haryana, following expenses have been sanctioned and released to the petitioner:-

(i) For treatment at PGIMER from 18.04.2012 to 14.08.2012 and thereafter, from 06.12.2012 to 09.01.2013, the Department of Secondary Education, vide order No.8/60- 2013 HRG-I (5) dated 26/27.08.2013 (Annexure P-4) has sanctioned the amount of Rs.3,80,313/- + Rs.3,13,928 = Rs.6,94,241/- against the amount of Rs.7,32,355.50 spent on treatment and claimed as per the bills submitted.

(ii) For treatment at the INSCOL Hospital from 19.01.2012 to 17.04.2012 the Department of Secondary Education vide Order No.6/60-2013 HRG-1 (5) dated 27.09.2013 (Annexure P-5) has sanctioned an amount of Rs.11,26,330/- against the amount of Rs.23,15,161.50 spent on treatment at INSCOL Hospital and claimed.

4. Vide letter dated 23.10.2013 (Annexure P-6), the petitioner was informed that expenses incurred on the treatment taken at residence from 15.08.2012 to 05.12.2012 amounting to Rs.1,33,597/- are not reimbursable as these pertain to outdoor treatment of the patient. The petitioner is seeking reimbursement of whole of the amount which he had spent on the treatment of his mother.

5. Learned senior counsel for the petitioner has referred to the New Reimbursement Policy dated 06.05.2005, whereby a provision has been made to reimburse the amount spent for the treatment taken from an unapproved hospital. Relevant feature of the said policy is reproduced as under:-

"4. Unapproved Hospitals:

(a) The reimbursement for the treatment taken in an emergency in an unapproved hospital will be allowed equal to PGI, Chandigarh rates with the approval of the Administrative Department.

(b) Head of the Department in consultation with concerned Civil Surgeon is competent to certify an emergency."

6. Further, the Government of Haryana, vide letter dated 08.06.2005 (Annexure P-12), has mentioned chronic Respiratory Diseases-COPD in the list of chronic Diseases with immediate effect. As per the certificate issued by the PGIMER on account of death of Mrs. Ved Prabha Kapur in the main ICU on 09.01.2013, it is mentioned that Chronic Respiratory Disease was one of the causes of her death.

7. Learned counsel for the petitioner has further referred to the judgment passed by this Court in *Renu Saigal v. State of Haryana*, 1998 (4) SCT 565 (Annexure P-10), whereby instruction dated 11.08.1992 restricting the amount to be reimbursed for outdoor treatment in Government Hospitals to only Rs.500/- per month, was quashed. It was held that the patient was entitled to full reimbursement of medical expenses on account of both indoor and outdoor treatment. She finally argued that Mrs. Ved Prabha Kapur, mother of the petitioner, was suffering from chronic disease as per Haryana Government letter dated 08.06.2005 (Annexure P- 12) and she was entitled to full medical reimbursement for outdoor and indoor treatment. As far as treatment from unapproved hospital is concerned, the reimbursement has to be made at the rates equal to PGI, Chandigarh in view of the instructions dated 06.05.2005.

8. Learned counsel for the respondents, on the other hand, has argued that mother of the petitioner was shifted from Govt. Multispeciality Hospital, Sector 16, Chandigarh to INSCOL Hospital, Sector 34, Chandigarh, which was not an approved hospital. This hospital is not on the panel of approved hospitals of Haryana Government and the bills submitted by the petitioner as per Government instructions, were cleared to the extent of Rs.11,26,330/- at PGI/ AIIMS rates vide Annexure R-I. As per Annexure R-III, the petitioner has rightly been sanctioned Rs.6,94,241/- for the period when his mother remained admitted in PGI, Chandigarh i.e. from 18.04.2012 to 14.08.2012. The third bill of

Rs.1,33,597/- regarding outdoor treatment of his mother from 15.08.2012 to 05.12.2012 was not reimbursable as per the provisions of Medical Attendance Rules, 2010. As she was already availing the fixed medical allowance along with her pension, so she was not entitled to the reimbursement of outdoor treatment.

9. Heard, counsel for the parties.

10. As far as the bills regarding outdoor treatment from 15.08.2012 to 05.12.2012 is concerned, those bills ought to have been reimbursed in view of the judgment passed by this Court in Renu Saigal's case (supra). Perusal of this judgment shows that the petitioner (in that case) was suffering from hairy cell leukemia and remained admitted in the PGI. After being discharged, the doctor in the PGI prescribed a course of medicine for the petitioner and accordingly, issued a certificate that her treatment was going to be a prolonged one and the cost of medication was likely to be in the range of Rs.20,000/- to Rs.30,000/- per month. The claim for outdoor treatment was rejected by the respondents on the ground that as per Reimbursement Policy dated 11.08.1992, no employee would be entitled to reimbursement of more than Rs.6000/- per annum as outdoor patient. This clause was held to be unrealistic and was quashed by giving direction to the respondents to make full reimbursement of the medical expenses, both outdoor and indoor.

11. In the present case, as per discharge slip dated 14.08.2012 (Annexure P-2), it is clarified that treatment of late Mrs. Ved Prabha Kapur at her residence was continuing treatment to the indoor treatment. Hence, applying the ratio of the judgment passed in Renu Saigal's case (supra), the bills pertaining to the treatment given to the patient after her discharge from PGI w.e.f. 15.08.2012 to 05.12.2012 amounting to Rs.1,33,597/- have to be reimbursed being outdoor treatment. After passing of the judgment in Renu Saigal's case (supra), the Government of Haryana vide letter dated 28.05.2003 (Annexure P-11) modified its earlier instructions dated 11.08.1992 and decided to reimburse total expenditure on indoor and outdoor treatment in case of employees/pensioners suffering from chronic diseases. In view of these instructions, medical bills regarding outdoor treatment are liable to be reimbursed. Further, the medical bills amounting to Rs.7,32,355.50 for getting treatment at PGIMER from 18.04.2012 to 14.08.2012 and thereafter, from 06.12.2012 to 09.01.2013 are liable to be reimbursed completely without making any deduction.

12. Finally, the question for consideration is, "whether the bills qua the treatment taken from INSCOL Hospital, which is not in the approved list of hospitals, should have been reimbursed".

13. A perusal of instructions dated 28.05.2003 (Annexure P-11) shows that the Government, after passing of the judgment in Renu Saigal's case (supra), has modified the earlier instructions dated 11.08.1992, whereby limit of reimbursement of Rs.6000/- per annum for outdoor treatment of chronic disease has been removed. However, the remaining conditions of instructions dated

11.08.1992 were retained. As per petitioner, despite making strenuous efforts, the facility of ventilator was not available at PGIMER and FORTIS hospitals and in this background, keeping in view the emergent situation, the patient was taken to INSCOL Hospital, Sector 34, Chandigarh. Affidavit of the petitioner, in this regard, has been placed on record as Annexure P-19, wherein it has been stated that had the ventilator been available in PGIMER, his mother would have never been shifted to INSCOL Hospital. Hence, the treatment in INSCOL Hospital had been taken in emergent condition. The respondents have reimbursed the bills pertaining to INSCOL Hospital as per instructions dated 06.05.2005 (Annexure P-16). According to these instructions, treatment from an approved hospital can be taken after getting permission from a Civil Surgeon. Reimbursement has to be made as per instructions of the Government while approving the said hospitals. In the case of unapproved hospital, reimbursement has to be made equal to the PGI, Chandigarh rates with the approval of the Finance Department. It has been further clarified by the Financial Commissioner & Principal Secretary to Government of Haryana on 15.07.2007 that even in case of treatment taken from unapproved hospitals in emergency, the payment is to be allowed as per PGI, Chandigarh rates by the Administrative Department after due verification of the bills and rates by the Health Department. The power of verification of the bills has been delegated to the Health Department. The State has further modified the instructions of reimbursement on 21.04.2008 (Annexure P-17), whereby apart from reimbursement of indoor/outdoor treatment of chronic disease, the Government has decided to reimburse Rs.1500/- per year out of the amount spent on outdoor treatment of other diseases of the dependents of claimants. A careful reading of Annexures P- 16 and P-17 clarifies that even in case of emergency, if the treatment is taken from unapproved hospital, the reimbursement has to be made as per PGI, Chandigarh rates. Hence, the prayer of learned counsel for the petitioner seeking full payment qua the treatment taken in INSCOL Hospital, is liable to be rejected. Medical bills with regard to the treatment taken from INSCOL Hospital have been reimbursed after due verification, as per instructions dated 06.05.2005 (Annexure P-16). This fact has been further explained by Sh. Arvind Malhan, Additional Director-cum-Special Secretary to Government of Haryana, School Education Department, in his affidavit dated 12.06.2015. In that affidavit, it has been stated that the bill amounting to Rs.23,03,161/- was submitted by the petitioner for treatment of his mother from INSCOL Hospital, Chandigarh w.e.f. 01.04.2012 to 18.04.2012 as an indoor patient. The said bill was worked out by the Department as per Government instructions and an amount of Rs.11,26,330/- was sanctioned to the petitioner on 27.09.2013 at PGI/AIIMS rates (Annexure R-1). The petitioner cannot claim complete reimbursement of medical bill regarding treatment taken from INSCOL Hospital, even though the patient was taken there in an emergent condition.

14. In view of the above discussion, this petition is partly allowed; the order/ letter dated 23.10.2013 (Annexure P-6) is set aside and a direction is given to

the respondents to completely reimburse the medical bills pertaining to the treatment of late Mrs. Ved Prabha Kapur at PGIMER, Chandigarh as indoor and outdoor patient as per instructions/letter dated 28.05.2003 (Annexure P-11), which provides for complete reimbursement of indoor and outdoor treatment for chronic disease.