
(2008) 01 PAT CK 0160
In the Patna High Court
Case No : CWJC No. 11421 of 2006

Dr. Ramesh Chandra Singh	Vs	APPELLANT
The State of Bihar and Others		RESPONDENT

Date of Decision : 21-01-2008

Acts Referred:

Citation : (2008) 2 PLJR 351

Hon'ble Judges : Navin Sinha, J

Bench : Single Bench

Advocate : Bankey Bihari Singh, Shailendra Prasad and Prafull Ranjan, for the Appellant; Santosh Kumar Singh, Sanjay Kumar and Shailendra Kr. Singh, for the Respondent

Final Decision : Allowed

Judgement

Navin Sinha, J.—Heard learned counsel for the petitioner and learned counsel for the State. The petitioner, who at the relevant time was a District Animal Husbandry Officer, was detected to be suffering from Cancer in December, 2003. He was referred to Delhi for urgent investigation and treatment. Though he did try for treatment at the A.I.I.M.S. long queues at the hospital and the urgency of the situation made him to proceed to the Rajeev Gandhi Cancer Institute and Research Centre at Delhi for treatment. He was diagnosed to be suffering from the third stage of Cancer and urgent surgery was advised. He was operated upon on 29.12.2003. He was then recommended follow up treatment.

2. The claim in this writ petition is for reimbursement of medical bills to the extent of Rs. 1,54,950.83 for which it is stated that he submitted his claim alongwith documents. This was so done on 11.8.2004. He then superannuated on 31.8.2004. In exasperation he ultimately came to this Court in 2006 for reimbursement.

3. A counter affidavit has been filed on behalf of the respondents. It does not dispute the emergency treatment which the petitioner required and the factum of

the operation. What the counter affidavit urges is that the petitioner proceeded for such treatment and surgery without the permission of the competent authority and for that very reason the claim has been rejected by order dated 26.3.2007.

4. The respondents were obviously reluctantly propelled into action, even to reject the same only after the institution of the writ application.

5. From the counter affidavit filed on behalf of the respondents it is apparent from circular dated 20.5.2006 that the Head of the Department was competent to sanction a reimbursement up to a sum of Rs. 2,00,000/- for cases of treatment incurred outside the State.

6. Quite apparently, the petitioner was in urgent need of treatment and surgery, as he was suffering from third stage of Cancer. The applicability of the Medical Attendance Rules of this State, more particularly Rule 26 thereof, has been the subject of much consideration by this Court in more than one judgment. This Court has only reiterated the view expressed by the Supreme Court that cases of medical reimbursement arising out of the cases of an emergency nature stand apart.

7. A Bench of this Court in 2000(3) P.L.J.R. 729 on consideration of Rule 26 of the Bihar Medical Attendance Rules, 1947 held that as far as the requirement of prior approval of the Medical Board is concerned, in cases of emergency the provision of approval of Medical Board is totally unjustified, meaningless and unworkable. In that case also the petitioner had to undergo an emergency coronary artery bypass graft surgery. The objection of the respondents was that reimbursement of expenses incurred in treatment outside the State not supported by the recommendation of the Medical Board was not reimbursable in absence of prior approval and recommendation of the Medical Board. In 2005(13) SCC 393 (Chhotu Ram Yadav vs. State of Haryana) the Supreme Court held that the question of medical allowance and medical reimbursement for treatment in hospitals not recognized or approved had no application to cases of emergency.

8. This Court additionally takes judicial notice with regard to the lack of adequate facilities for treatment of Cancer in this State in December, 2003 when the petitioner had to proceed for emergency treatment outside the State.

9. In the facts and circumstances of the case, this Court is satisfied that the present is frivolous litigation at the behest of the State at the tax payers' expense. There was no justification for respondents to require the petitioner to have to approach this Court for the present relief when the law in this regard stands well settled.

10. Respondent No. 3 is directed in terms of the Government circular dated 20.5.2006 to disburse the sum of Rs. 1,54,950/-, not disputed by the respondents, to the petitioner within a period of two weeks from the date of

receipt/presentation of a copy of this order.

11. No justifiable cause has been shown by the respondents for the delay. This Court therefore directs respondents No. 1 to hold an enquiry of the reasons for the delay in view of the discussions as aforesaid and take appropriate action, disciplinary or otherwise, with regard to those who may be found wanting. Learned counsel for the petitioner next presses for the travelling and lodging expenses. It shall be open for him to file a representation with regard to the same when such claim shall be considered in accordance with Government circulars and procedures. Let such representation be also disposed off within a period of four weeks from the date of its submission or presentation.

12. In the event of an order prejudicial to the petitioner the respondents shall be required to pass a reasoned and speaking order. The writ application stands allowed.