

(2001) 09 MAD CK 0021

In the Madras High Court

Case No : W.A. No. 869 of 1997 and C.M.P. No. 10055 of 1997

Dr. Satchidhanandam

APPELLANT

Vs

Union of India

RESPONDENT

Date of Decision : 28-09-2001

Acts Referred:

Citation : (2001) 09 MAD CK 0021

Hon'ble Judges : N.V. Balasubramanian, J; A.K. Rajan, J

Bench : Division Bench

Advocate : A. Muthukumar, for the Appellant; C. Krishnan, Senior Central Govt. Standing Counsel, for the Respondent

Judgement

A.K. Rajan, J.—This writ appeal is filed against the order of the learned single Judge dismissing W.P. No. 13921 of 1991. The prayer in the

writ petition is to issue a Writ of Mandamus directing the respondents to pay the medical reimbursement claimed by the petitioner.

2. The petitioner is a Doctor, attached to Cantonment General Hospital, Chennai. During the month of March 1988 he suffered some heart

problem and hence he was admitted in the Southern Railway Hospital, Perambur. During the investigation, it was found on the basis of the

Coronary Angiogram, that the petitioner was suffering from Coronary disease. Therefore, Dr. F.A. Medical Attendant, had given a certificate that

the petitioner was suffering from Coronary disease and therefore, he referred for Coronary By-pass surgery in Apollo Hospital, Madras-3. It is

also stated that as per the Medical Attendance Rules, Apollo Hospital is the recognised hospital for the Coronary By-pass surgery. Subsequently,

the petitioner was admitted in the Apollo Hospital and he underwent By-pass surgery on 6-5-1988. The petitioner wrote a letter to the third

respondent claiming for reimbursement of the Medical expenses incurred by him. No reply was received from the third respondent in spite of

repeated requests made by him. We find in one of the letters written during 1991 by which the petitioner was informed that the matter had been

referred back to C.F.O. St. Thomas Mount, Chennai, for seeking certain clarifications, which is still awaited. Subsequent to this letter no other

information was received by the petitioner. Therefore, the petitioner filed the writ petition seeking for reimbursement of the medical expenses

incurred by him.

3. Learned single Judge dismissed the writ petition on the ground that the writ petitioner did not go to the government Hospital seeking remedy and

he did not obtain the certificate from the competent authority and he did not follow the procedure laid down under the rules and therefore came to

the conclusion that the petitioner is not entitled to get the amount reimbursed. The learned Judge has also held that the petitioner has not proved

that he is entitled to get the amount reimbursed after such a long time and accordingly dismissed the writ petition. As against the order of the

learned single Judge, the present appeal has been filed.

4. Learned counsel for the appellant contended that as per Rules if facilities are not available in the Government Hospital, the petitioner is entitled

to take treatment in any other recognised hospital. Apollo Hospital is admittedly a recognised hospital and therefore for the treatment taken by him

in the Apollo Hospital he is entitled to get reimbursement. Further, he has stated that actually he has incurred a total expenses of Rs. 42,500/-.

Since the petitioner has got money through the Medi Claims Insurance Policy taken by him, after deducting a sum of Rs. 19,350/- he has claimed

only the balance of Rs. 23,150/-.

5. Learned counsel for the respondents argued that as per the Medical Attendance Rules, so far as Chennai is concerned, it has been decided that

Apollo Hospital, Chennai, maybe treated as a referral hospital in respect of treatment of coronary By - pass surgery for the treatment for Central

Government Servants and members of their families, covered under the Central Services (Medical Attendance) Rules, 1944. Therefore though the

Apollo Hospital is one of the recognised hospitals, before getting admitted into the hospital an Authorised Medical Attendant in consultation with

the Government specialist/Government or Recognized Hospital should have given a certificate that such facilities for By-pass surgery is not

available in any other hospital or recognised hospital nearer than the Apollo Hospital, Chennai. Since such a certificate has not been furnished by

the petitioner as per rules, the petitioner is not entitled to claim reimbursement. He also referred to the prescribed form, the certificate B as required

under Essentiality certificates mentioned in Appendix XIV of Medical Attendance Rules should have been furnished.

6. It is true that the certificate B, which is essential for claiming medical reimbursement as per the Medical Attendance Rules, has not been

furnished by the petitioner. We cannot forget that a person who is suffering from Coronary disease, could not have waited for formalities to be

complied with, as it may take months or years at times. Any patient who is suffering from chronic disease would rush to the hospital for taking

treatment. Furnishing of certificate B, is a mere formality, especially a patient who is struggling for life usually gives importance for taking treatment

first. Mere non-compliance with the rules and procedures cannot stand in the way of the petitioner getting the reimbursement.

7. It is to be seen that the petitioner has deducted Rs. 19,350/- from the total medical expenses incurred by him, which he got by way of Medi

Claims Insurance and only claimed a sum of Rs. 23,150/- as reimbursement. Though the petitioner has claimed the balance amount after deducting

the insurance amount from the total expenses incurred by him, still the amount has not been paid.

8. Counsel for the respondent also referred to the Certificate given by Dr. Vijaya Shankar, Assistant Professor of Cardio Thoracic Surgery,

Government General Hospital, Madras. Though the certificate is dated 4-4-1988, the same was not tiled along with the typeset of papers but

certificate given by Dr. F.A. Royan, dated 8-4-1988 had been attached with the typeset of papers. This does not in any way either affect the claim

of the petitioner or will help the case of the respondents.

9. Learned counsel for the respondents argued that the claim is barred by limitation because as per the Medical Attendance Rule of Central

Services (M.A.) Rules of Medical Attendance Rules, the time limit for making the claim is three months. This time limit should be adhered to. The

claim is made after one year and as such the petitioner is not entitled for reimbursement. Learned counsel for the appellant pointed out that the

survey was conducted on 6-5-1988 and the claim was made on 26-7-1988 and therefore, the claim is within three months from the date on which

the petitioner had undergone the surgery. Since the petitioner has made the claim within three months it is not barred by limitation. In view of the

above, we are of the opinion that the claim has been made within the time limit and it is not barred by limitation.

10. The counsel for the appellant also argued that since the claim is pending for more than ten years the appellant is entitled to interest on the

amount of reimbursement at the rate 18% p.a. Counsel for the respondent argued that even if the appellant is entitled for reimbursement, he is not

entitled for any interest on the amount to be reimbursed. The petitioner has claimed only a sum of Rs. 23,150/- after deducting a sum of Rs.

19,350/- from the actual total expenses of Rs. 42,500/-, which he got from Medi Claims Insurance. Considering the facts and circumstances of the

case, though normally we will direct the authorities to consider the claim of the petitioner and pass orders, in this case, considering the fact that the

respondents have not given any reply for the claim made, by the petitioner, we direct the respondents to pay a sum of Rs. 23,150/- to the

petitioner immediately. The amount to be reimbursed shall carry interest at the rate of 9% p.a. from the date of filing of the writ petition i.e. 1-10-

1991. Accordingly, the order of the learned single Judge is set aside and the appeal is allowed. There will be no order as to cost, consequently

C.M.P. No. 10055 of 1997 is closed.