

(2002) 08 RAJ CK 0034

In the Rajasthan High Court

Case No : Civil Writ Petition No. 5977 of 1995

Gajraj Chand Bhandari

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 19-08-2002

Acts Referred:

Citation : (2004) 1 RLW 557 : (2003) 1 WLC 51

Hon'ble Judges : Shiv Kumar Sharma, J

Bench : Single Bench

Advocate : A.K. Bhargava, for the Appellant; Mahesh Chand Sharma, A.A.G., for the Respondent

Final Decision : Allowed

Judgement

Sharma, J.—The petitioner, who is an retired Government employee of the State of Rajasthan in the instant writ petition challenged the decision of rejecting the financial assistance of an amount of Rs. 91,672.99/- vide letter dated July 25, 1995 with a further direction to reimburse full amount of Rs. 1,42,672.99 paid by him to the Escorts Heart Institute and Research Centre, New Delhi for Coronary artery By-pass Grafting done on July, 1994 on a recommendation made by the Medical Board constituted by the Principal, SMS Medical College, Jaipur.

2. The petitioner served the State of Rajasthan in Cooperative Department and retired as Deputy Registrar in the year 1989. The petitioner in the year 1994 suddenly attacked by IHC triple Vessel disease at Jodhpur. The doctors at Jodhpur recommended the case to the SMS Hospital. The Principal SMS Medical College Jaipur vide letter dated June 2, 1994 constituted Board and the board was requested to submit report on the following lines.-

- (a) Whether the facilities exist in Rajasthan or India.
- (b) Whether patient requires attendants or not
- (c) Nature of service of patient/father/mother/wife with the name of his/her

department and drawing officer alongwith designation if the patient is in Government service.

(d) Estimated cost on the treatment/investigations.

3. The petitioner was examined by the Board and vide letter dated June 6, 1994 the Principal SMS Medical College Jaipur informed the District Collector Jaipur that the petitioner has been suffering from IHC Triple Vessel disease and the Board recommended further evaluation by CABC of Escorts Heart Institute, New Delhi as these facilities are not available in Rajasthan. The petitioner as per the advise of the Board approached the Escorts Heart Institute and Research Centre, New Delhi and the petitioner was admitted in the Hospital on July 5, 1994 and after doing Coronary artery Bypass Grafting, the petitioner was discharged from the Hospital on July 21, 1994. The petitioner paid expenses incurred at the Hospital amounting to Rs. 1,41,673.99 and submitted the full bill to the District Collector Jaipur for arranging the payment. The bill of the petitioner was duly forwarded by the District Collector to the Member Secretary, Rajasthan State Pensioners Medical Concession Scheme, Directorate of Pension and Pensionary Welfare Rajasthan Jaipur. Vide letter dated January 27, 1995 a sum of Rs. 50,000/- was only granted to the petitioner as financial assistance for treatment at Escorts Heart Institute and Research Centre, New Delhi. In the letter it was averred that as per the decision taken in the meeting of December 24, 1994 by Sub-Committee of the Board of Trustees, an amount of Rs. 50,000/- is only granted as financial assistance and no communication regarding remaining amount was conveyed neither to the District Collector nor to the petitioner. The petitioner averred that thus an amount of Rs. 91,673.99 remained unpaid by the respondents. The petitioner submitted representation to the respondent No. 3 on February 16, 1995 and April 5, 1995. Thereafter a legal notice was sent through advocate on June 22, 1995. The Member Secretary, respondent No. 3 vide his communication dated July 25, 1995 addressed to the advocate of the petitioner denied for payment of remaining amount. Hence, the petitioner approached the Court for claiming relief mentioned above.

4. The respondents submitted return and averred that a Scheme called the Rajasthan State Pensioners Medical Concession Scheme was framed to provide medical relief to the State Government pensioners which was notified by the State Government vide Notification dated November 19, 1981. A Board of Trustees was appointed to implement and administer this scheme. As per the scheme the treatment is provided to pensioners within the State but it does not provide for treatment outside the State. The matter regarding grant of financial assistance to the pensioners who are required to seek treatment outside the State came up for consideration before the board of Trustees from time to time. Board of Trustees in its meeting held on June 22, 1992 considered the matter for laying a policy for grant of financial assistance to the pensioners in respect of treatment taken at approved hospitals after obtaining recommendations of the Medical Board and Principal, Medical College. The

decision is reproduced as under:

"In case of pensioners getting treated at hospitals outside the State (approved by the Government) on the recommendations of the Medical Board, Financial assistance under the scheme be limited to 80% of hospital expenditure or rupees 50,000/- which ever is less."

5. The petitioner was granted a sum of Rs. 50,000/- vide the decisions of the Sub-Committee of the Board dated December 24, 1994 through District Collector Jaipur vide his communication dated January 28, 1995. In view of this the respondents denied to make further payment of Rs. 91,672.99 as the treatment was taken outside the State. It was further submitted that the respondents have not committed any illegality by making payment of Rs. 50,000/- to the petitioner which is the full admissible amount of financial assistance. The respondents averred that the case of Shri B.P. Beri, Ex. Chief Justice for making payment of full amount of treatment was related to the year 1991 prior to the decision of Board dated June 22, 1992. It was further submitted that there is no denial of equal treatment to the petitioner. The cases were decided in accordance with the Rules in force at the time of treatment is taken outside the State. After receiving representation from the petitioner, his case was again placed before the Sub-Committee in its meeting held on 31.5.1995 wherein after examining the points raised by the petitioner his claim was found not tenable in the light of the Rules in force at the time of treatment.

6. I have heard the rival contentions of the parties.

7. This court in Smt. Nirmala Kumari Raizada v. Director Pensions and Pensioners Welfare and Ors. (1), directed the respondent Director Pensions that when a retired Government employee had gone out of the State and in emergency in order to save his life had to take medical treatment at a big hospital outside the State, then he should be given benefit of the Scheme by invoking Rule 16 and it was further directed to construe Rule 16 of the Rajasthan Pensioners Medical Concession Scheme, 1981 liberally in the benefit of retired employees.

8. Rule 16 of the Rules of 1981 reads thus:-

"The Board of Trustees may grant to a pensioner any concession relating to medical treatment or attendance which is not provided in this Scheme in individual cases of extreme hardship on merits."

9. The Division Bench of the Punjab and Haryana High Court in Sadhu Pal v. State of Punjab and Ors. (2) propounded that the provision of free medical treatment or reimbursement in lieu thereof is a beneficial act of the welfare State for its employees, the rules/instructions have to be construed liberally in favour of the employees for granting them the relief, rather than adopting a wooden attitude to deprive a person of his due. The Division Bench directed the State of Punjab that the ends of justice will be met by directing the respondents to reimburse the petitioner the amount incurred on his treatment in the Escorts

Heart Institute, New Delhi, with 12% compound interest from the date the amount became due till its payment.

10. In the instant case, the petitioner suddenly attacked by IHD Triple Vessel disease at Jodhpur. The doctors at Jodhpur recommended the petitioner to SMS Hospital Jaipur. The Principal SMS Medical College and Hospital, Jaipur constituted Board and the Board sent its report to the Principal and thereafter it was forwarded to the District Collector, Jaipur and the petitioner got admitted at Escorts Heart Institute and Research Centre New Delhi on July 5, 1994 and was discharged from the Hospital on July 21, 1994 after Coronary Artery By pass Grafting on July 14, 1994. The petitioner paid the expenses in the amount of Rs. 1,41,673.99 vide Bill No. 1702 dated July 22, 1994. The bills were submitted to the District Collector Jaipur for payment but the Sub-Committee of the respondent No. 3 only sanctioned a sum of Rs. 50,000/- to the petitioner and it was notified to him that as the petitioner was treated outside the State (approved by the Government) on the recommendations of the Board, financial assistance under the scheme is limited to do 80% of hospital expenditure or rupees 50,000/- whichever is less.

11. In my considered opinion in the facts and circumstances of the case Rule 16 of the Scheme be construed liberally in the case of the petitioner as no facility of treatment was available in the State of Rajasthan at that time and the Board constituted by the Principal recommended his case for treatment at Escorts Heart Institute and Research Centre.

12. Denial of further payment of Rs. 91,572.99/- paise cannot be said to be justified in the facts and circumstances of this case. The points raised by the petitioner ought to have been liberally construed. Free medical treatment or reimbursement in lieu thereof is a beneficial act of the welfare of State for its employees and the rules/instructions have to be construed liberally for benefit of the employees for granting them the relief, rather than adopting a wooden attitude to deprive the employee of its due. I am of the view that the ends of justice would be met by directing the respondents to reimburse the petitioner the entire amount incurred on his treatment with 12 per cent compound interest from the date amount became due till its payment.

13. Consequently the writ petition succeeds the stands allowed. The respondents are directed to pay Rs. 91,592.99/- with 12 per cent compound interest to the petitioner from the date amount became due till its payment. Costs easy.