
(2010) 01 DEL CK 0123

In the Delhi High Court

Case No : Writ Petition (C.) No. 56 of 2008

Gurcharan Singh

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 19-01-2010

Acts Referred:

Citation : (2010) 166 DLT 610 : (2010) 125 FLR 121 : (2010) 3 ILR Delhi 148

Hon'ble Judges : S.N. Aggarwal, J

Bench : Single Bench

Advocate : K.K. Mehrotra, for the Appellant; B.V. Niren, for the Respondent

Final Decision : Allowed

Judgement

S.N. Aggarwal, J.—The petitioner before his death was a CGHS beneficiary. He died during the pendency of the present writ petition filed for directions to the respondents to reimburse medical expenses incurred by him on the treatment of his wife in Sir Ganga Ram Hospital firstly on 02.07.2005 and again on 03.08.2005. After his death on 29.04.2008, his widow Smt. Surjeet Kaur was substituted as his legal heir vide order passed by this Court on 21.10.2008.

2. The only short question that arises for consideration in the present writ petition is whether the petitioner was entitled for reimbursement of medical expenses at the scale of approved rates approved by the Government in 2001 or was he entitled to reimbursement of actual expenses charged by the Hospital from him in 2005 for the treatment of his wife.

3. Briefly stated the facts of the case giving rise to the above question are that the wife of the petitioner was admitted in Sir Ganga Ram Hospital on an emergency call on 26.05.2005 and she was got discharged from the Hospital on 02.07.2005 upon payment of Rs. 31,557/- against Bill No. 0149876 dated 02.07.2005. As per the petitioner, he got his wife discharged from the Hospital on 02.07.2005 as permission for treatment in Sir Ganga Ram Hospital was not taken from the concerned CGHS dispensary before her admission in view of

emergency on 26.05.2005. The petitioner after getting his wife discharged from the Hospital on 02.07.2005 approached the concerned CGHS dispensary which referred his wife for further procedure to Sir Ganga Ram Hospital vide approval granted on 04.07.2005. Upon such approval being granted by the CGHS dispensary to the petitioner, he got his wife admitted again in Sir Ganga Ram Hospital for operation of removal of her kidney on 13.07.2005 where she underwent treatment till 03.08.2005. She was discharged from the Hospital on 03.08.2005 upon payment of Rs. 1,73,391/- by the petitioner against Bill No. 0155711 dated 03.08.2005.

4. The petitioner after treatment of his wife as stated above submitted his medical claim for reimbursement of expenses of Rs. 1,73,391/- and Rs. 31,557/- incurred by him for the treatment of his wife in Sir Ganga Ram Hospital. These bills were partly paid by the respondents. Against expenses of Rs. 31,557/- incurred by the petitioner and paid by him in the Hospital on 02.07.2005, the respondents paid him Rs. 14,365/- only and deducted Rs. 17,192/-. Against the medical bill of Rs. 1,73,391/- paid by the petitioner for the treatment of his wife to the Hospital on 03.08.2005, the respondents paid him only an amount of Rs. 67,553/- and deducted an amount of Rs. 1,06,038/- out of the said bill.

5. As per the petitioner, he was entitled to reimbursement of expenses incurred by him on the treatment of his wife to the full extent because according to him, the rates approved by the respondents in 2001 could not have been applied for treatment taken by the petitioner for his wife in 2005.

6. The respondents in their counter affidavit filed in response to the present petition have taken a stand that the medical expenses have been reimbursed to the petitioner as per Policy of the respondents relating to reimbursement of medical claims. The respondents have referred to an order of Hon''ble Supreme Court dated 20.03.2007 in Civil Appeal No. 319/2001 titled UOI and Ors. v. Nunihal Singh in support of their defence that the petitioner was entitled for reimbursement of his medical claim in terms of rates approved by the respondents in 2001.

7. I have heard the learned Counsel for both the parties and have given my anxious consideration to their rival arguments advanced before me.

8. Mr. K.K. Mehrotra, learned Counsel appearing on behalf of the petitioner, has argued that his client cannot be deprived of the payment charged by the Hospital for the treatment of his wife and according to the learned Counsel, it is for the respondents to deal with the Hospital regarding the rates charged by it. As against this argument advanced on behalf of the petitioner, Mr. Niren, learned Counsel appearing on behalf of the respondents, relying upon the above referred order of the Hon''ble Supreme Court has argued that the petitioner was entitled to reimbursement of medical claim as per Policy of the respondents to reimburse medical claims as per rates approved by it in 2001. Mr. Niren has further argued that the Government undertakes the exercise of updating the approved rates

after every five years and since according to him, in the present case the rates were revised in 2001 and as the petitioner had taken treatment for his wife in 2005 during the currency of the approved rates, he was entitled for reimbursement only as per approved rates of 2001. Mr. Niren has further submitted that the petitioner cannot take the benefit of revised rates of 2006.

9. On giving my anxious consideration to the above rival arguments advanced by the learned Counsel for the parties, I have not been able to persuade myself to agree with the arguments advanced on behalf of the respondents. The judgment of the Hon''ble Supreme Court referred to and relied upon by the learned Counsel appearing on behalf of the respondents is not applicable to the facts of the present case. In that case, the Hon''ble Supreme Court has upheld the Policy of the Government for reimbursement of medical claims of CGHS beneficiaries. In that case also, the Hon''ble Supreme Court had granted it approval to the full reimbursement of medical expenses incurred by the medical card holder in that case. On a perusal of the order of the Hon''ble Supreme Court on which reliance is placed by the counsel for the respondents, the date on which the treatment was taken by the medical card holder is not borne out. It is not clear whether the treatment was taken by the medical card holder in that case close to a date when rates were approved by the Government. In the present case, the treatment was taken by the petitioner for his wife in Sir Ganga Ram Hospital on the recommendations of the concerned CGHS dispensary after more than four years of the rates approved by the Government in 2001.

10. In *K.P. Singh v. Union of India and Ors.*, (2001) 10 SCC 167, directions were given by the Supreme Court to the Government to up-date its approved rates on an annual or at least on biennial basis. It seems that the said directions given by the Hon''ble Supreme Court to the Government were not heeded to by the Government as the Court has been informed that instead of up-dating the approved rates on an annual or biennial basis, the Government has undertaken an exercise for revising the approved rates after 2001 in 2006 only. This clearly shows that the Government is acting in defiance of the directions of the Hon''ble Supreme Court on the subject. There are any number of judgments both of this Court and also of the Hon''ble Supreme Court where a duty has been cast upon the Government to up-date its approved rates from time to time. Once a CGHS beneficiary is recommended for treatment in an approved hospital on the list of the Government, then he cannot be denied the reimbursement of expenses actually incurred by him unless the beneficiary opt of his own to go for a luxury treatment and incur expenses beyond the approved rates of the Government for a normal treatment. It is not the case of the respondents that the petitioner in the present case had taken any such luxury treatment for his wife for which claim was made by him. In the opinion of this Court, the respondents acted arbitrary and without any justification in denying the medical claim made by the petitioner in regard to actual payment made by him to the Hospital for the treatment of his wife. Reference can be made to some of the judgments of this Court in *Jai Prakash v. Union of India* 2007 (VI) AD Delhi 518; *Sh. Ram Niwas*

Jain Vs. Central Govt. Health Scheme and Another, and B.R. Goel v. Union of India 2007 (I) AD Delhi 341.

11. In view of the foregoing and having regard to the facts and circumstances of the present case, this writ petition is allowed and the respondents are hereby directed to make balance payment towards medical claim made by the petitioner for treatment of his wife after adjusting the payment already made to him. The balance payment be made by the respondents to the widow of the deceased petitioner within six weeks from today failing which the respondents shall be liable to pay interest on the balance amount @ 12% per annum till the date of actual payment.