
(2005) 09 P&H CK 0095
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 7408 of 2004

Gurnam Singh

APPELLANT

Vs

Punjab Agricultural University and Others

RESPONDENT

Date of Decision : 23-09-2005

Acts Referred:

Constitution of India, 1950 — Article 226, 227

Citation : (2006) 142 PLR 84

Hon'ble Judges : S.S. Nijjar, J; Nirmal Yadav, J

Bench : Division Bench

Advocate : G.S. Anand, for the Appellant; P.S. Kang, and Charu Tuli, D.A.G., for the Respondent

Final Decision : Allowed

Judgement

Nirmal Yadav, J.—Claiming medical reimbursement of medical expenses, about 89 years old petitioner Gurnam Singh Mann has invoked the jurisdiction of this Court under Articles 226/227 of the Constitution of India seeking writs in the nature of certiorari and mandamus quashing Memo dated 24.9.2002 (An-nexure P-6) and directing the respondents to make reimbursement of medical expenses of Rs. 1 1377/- incurred on the operation of his right eye.

2. The petitioner retired as Associate Professor from the respondent-University, which is a State instrumentality. While he was away to his village in district Amritsar, the petitioner experienced piercing pain in his right eye. He rushed to Dr. Daljit Singh Eye Hospital at Amritsar where he was admitted and cataract surgery was performed on his eye as an emergency operation. In all, the petitioner spent a sum of Rs. 11,377/- on the aforesaid treatment and submitted the claim to the respondent-University for reimbursement thereof. In response, the petitioner received a Memo dated 24.9.2002 (An-nexure P-6) along with a copy of decision of the Medical Board refusing to reimburse the medical expenses on the ground that allowing reimbursement of the treatment taken at a place other than the city of his residence without following the proper procedure would

create a wrong precedent and that the retiree was a resident of Chandigarh where all facilities exist. It is pleaded by the petitioner that respondent-University itself has issued a Notification dated 12.3.2001, inter alia notifying that reimbursement of medical charges in respect of pending cases may be allowed at the rate of P.G.I. After rejection of his claim for medical reimbursement at the hands of the respondents, the petitioner approached the Consumer Disputes Redressal Forum-I, U.T. Chandigarh by filing a complaint, which was rejected vide order dated 7.5.2003 (Annexure P-9) on the ground that the dispute did not fall within the ambit of the Consumer Protection Act and the petitioner was relegated to seek his remedy before the appropriate Forum/Court. Appeal preferred before the State Commission against the said decision of the Consumer Forum was also dismissed vide order dated 29.7.2003 (Annexure P-10).

3. In their written statement, respondents No. 1 to 4, while justifying the impugned decision to be correct, have inter alia stated that the petitioner did not comply with the rules/instructions issued from time to time with regard to medical reimbursement. The petitioner neither took permission from the University Medical Board nor obtained the consent of the District Chief Medical Officer before getting the treatment at Amritsar. It is further stated that the ailment was not so serious as to warrant immediate treatment from a private doctor.

4. Respondent No. 5 by filing written statement has also controverted the claim of the petitioner stating that the same was not admissible as per the instructions issued by the respondent-University and, therefore, the petitioner has rightly been denied the reimbursement of aforesaid medical expenses.

5. We have heard learned Counsel for the parties and perused the material on record.

6. Learned Counsel for the petitioner vehemently contended that the petitioner is an old retiree of about 89 years. When he experienced acute, piercing pain in his right eye, it was also fairly expected of him to get the alleviatory treatment from the nearest hospital, rather than to hunt for a list of approved hospitals or to get permission from the competent authority. In case a retiree visits outside the city, he lives in, he does not cease to be entitled for the benefits given to the retired employees. Therefore, it is wholly unjust and unfair on the part of the respondents to harass and humiliate the poor retiree at such an old age of his life by taking wholly lame excuses. In support of his arguments, the learned Counsel relied on a Division Bench decision of this Court rendered in the case of *Shakuntla v. State of Haryana* 2004 (1) R.S.J. 283 as also on a judgment of the Apex Court in *Swjit Singh v. State of Punjab and Ors.* 1996 (1) R.S.J. 845.

7. On the other hand, learned Counsel for the respondents argued that since the petitioner did not comply with the rules and instructions on the subject and had not obtained prior permission from the competent authority, he is not entitled for

the reimbursement claimed.

8. On careful consideration of the rival submissions made by the learned Counsel for the parties, we are of the opinion that the respondents should not have rejected the petitioner's claim merely on technicalities. The approach should be rather humane and compassionate. If the rules and regulations are applied *stricto sensu*, the result may be disastrous as the patient by the end of a prescribed process, may die or suffer serious bodily harm. No doubt, in normal circumstances, the procedure prescribed should be followed but in the case of emergency, one is not expected to follow the procedure. As rightly stated, the emergency knows no law and no procedure. The Division Bench of this Court in *Shakuntla* 's case (*supra*) has observed as under:-

8. The authorities prescribed under the rules have also to apply their mind in a conscious and cautious manner in dealing with such kind of situations. Saving the life of near and dear, a person may have to commit any act which includes the selling of one's jewellery, borrowing money at exorbitant rate of interest or subject himself/ herself to every and any condition. No hospital, private or government would entertain the patient without the amount having been deposited, it is at that juncture, circumstances and situations, the attendant of the patient become so vulnerable that except for saving the life of near and dear nothing seems to be more important. Thus, gravity of the situation has to be understood by the government in a far more positive manner than applying the normal mathematics. The situations may arise and generally do arise when the attendant of the patient may not have or be possessed with the money or the jewellery for saving the life of near and dear. Can we not think of better solutions for providing facilities to the patient in such a given situation? This needs to be examined by the concerned quarters who are not only meant for ruling but for serving the society. For rendering service to the society the necessary expenditures are not to be curbed but at the same time the action should be such that it may not open a possible wasteful tap in the State exchequer. Thus, the answer has to be provided by the persons who have been sitting at the helms of affairs of the State and have been facing such situations. According to us, the situation should be dealt with by the persons as if he or she is involved in the situation himself or herself. We never know that the situation which is being dealt with may fall upon that person as well.

9. The policy providing recommendation for treatment in the private institutes like Escort has come to be considered by this Court in several writ petitions, which was also considered by the Apex Court in *Surjit Singh*'s case (*supra*). The Apex Court shared the view expressed by this High Court in C.W.P. No. 13493 of 1992 titled as *Sadhu R. Pall v. State of Punjab* through Secretary Health and Family Welfare Punjab, Civil Secretariat, Chandigarh and Ors., decided on 6.10.1993, which are reproduced as under:-

The respondents appear to have patently used excuse in refusing full reimbursement, when the factum of treatment and the urgency for the same has

been accepted by the respondents by reimbursing the petitioner the expenses incurred by him, which he would have incurred in the AIIMS New Delhi. We loss sight of factual situation in the AIIMS, New Delhi, i.e. with respect to the number of patient received there for heart problems. In such an urgency one cannot sit at home and think in a cool and calm atmosphere for getting medical treatment at a particular hospital or wait for admission in some Government medical institute. In such a situation, decision has to be taken forthwith by the person or his attendants if precious life has to be saved.

10. In such circumstances, we are of the view that the petitioner had a right to take any step as might be necessary for his piercing eye. He was not supposed to stand in queue before the Medical Board/competent authority and to helplessly wait for permission for alleviation of pain. In case the institute from where the petitioner has taken the treatment did not fall in the approved list of hospitals, the respondents could, at least, reimburse the medical expenses at the rates prevalent for the same treatment at P.G.I., Chandigarh.

11. Accordingly, the writ petition is allowed and respondents are directed to reimburse the medical expenses incurred by the petitioner on the treatment of his eye at the rates prevalent for the same treatment at P.G.I., Chandigarh within a period of one month from the date of receipt of a certified copy of this order. In case the payment is not made within the stipulated period, the petitioner shall also be entitled to interest at the rate of 9% per annum to be calculated from the date of expiry of stipulated one month's period till payment.