
(2009) 05 RAJ CK 0073
In the Rajasthan High Court

Gyanendra Kumar Pareek

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 26-05-2009

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2009) 4 RLW 3134

Hon'ble Judges : Narendra Kumar Jain, J

Bench : Single Bench

Judgement

Narendra Kumar Jain, J.—At the request of learned Counsel for the parties, the final arguments were heard.

2. The petitioner has preferred this writ petition challenging the impugned order dated 11th September, 2007 (Annexure-4), whereby his medical bill of Rs. 1,51,465/- for reimbursement has been rejected by the respondent No. 3 - Treasurer, Treasury Office, Sikar on the ground that the Santokba Durlabhji Memorial Hospital, Jaipur, where his angiography and angioplasty were done, was not recognized hospital.

3. The petitioner was Head Master and he retired on 31st May, 2002. His PPO Number is 146566. He suffered sudden and severe heart attack on 29th April, 2006 and initially he was taken to nearest Doctor at Sikar, who found the condition of the petitioner serious and referred him to Jaipur and looking to the serious condition of the petitioner, his family members took him to Santokba Durlabhji Hospital, where his angiography and angioplasty were done.

4. The submission of learned Counsel for the petitioner is that the petitioner suffered heart attack and looking to his serious condition, his family members took him to Santokba Durlabhji Hospital, Jaipur, where he was treated; he was entitled for medical reimbursement and the same could not have been denied only on the ground that the said Hospital was not recognized. His submission is that main consideration in the mind of family members was to save the life of the

petitioner and at that point of time, whatever hospital came to their mind and considered just was felt as the best because emergency knows no law and no procedure and when human life is at stake, in such situation ultimate responsibility of the State cannot be washed out, therefore, the respondents committed an illegality in rejecting the claim of the petitioner only on this ground and as such the impugned order is liable to be quashed. He alternatively contended that whatever amount was admissible as per scheme for grant of medical concessions to State Government pensioners should have been allowed to the petitioner. He referred Section 4B(ii)(b) & (c) of the scheme.

5. The learned Counsel for the respondents defended the impugned order contending that Santokba Durlabhji Hospital was not recognized hospital, therefore, the petitioner is not entitled to any relief and impugned order was rightly passed.

6. I have considered the submissions of learned Counsel for the parties.

7. This Court in *Raghuveer Sharma v. State of Rajasthan and Ors.* 2007 WLC (Raj.) UC 516 considered the similar point where a retired government employee was treated in Santokba Durlabhji Hospital and his medical reimbursement bill was rejected on the ground that the Hospital is not recognized by the State Government and after considering the submissions of learned Counsel for both the parties, the writ petition was allowed and respondents were directed to make the payment of medical bills raised by the petitioner in terms of Rule 4 A of the scheme with interest @ 9% per annum from the date of presentation of bill till actual payment. The learned Single Bench observed that prime consideration in case of grave emergency which comes in the mind of family members is to save the life of patient and at that point of time whatever hospital comes to their mind and considered just is felt as the best because emergency knows no law and no procedure and when human life is at stake in such situation ultimate responsibility of the State cannot be washed out. Para 5 of the judgment is reproduced as under:

Prime consideration in case of grave emergency which comes in the mind of family members is to save the life of patient and at that point of time whatever hospital comes to their mind and considered just is felt as the best because emergency knows no law and no procedure and when human life is at stake in such situation ultimate responsibility of the State cannot be washed out. Technicalities of Rules and regulations under the Scheme are not required to be followed just in a mechanical manner so as to frustrate very purpose of the Scheme because a person having put in his whole life in the service of the State till attains age of superannuation always require human considerations.

8. The Division Bench of this Court in *Anil Kumar Surolia v. State of Rajasthan* 2005(3) WLC 396 considered the judgment of the Hon''ble Supreme Court in *Surjit Singh Vs. State of Punjab and Others*, and *State of Punjab and Ors. vs. Mohan Lal Jindal*, 2001 (9) SCC 217 and held that Government cannot insist

upon an employee to get himself treated at recognized government institution. All that the Government in these circumstances can do is to reimburse the concerned employee at the rates that may be applicable in the recognized government institutions. Para 7 & 8 of the judgment are reproduced as under:

7. Before we may part with this order, we would like to mention that the government cannot insisite upon an employee to get himself treated at recognized government institution. All that the government in these circumstancess can do is to reimburse the concerned employee at the rates that may be applicable in the recognized government institutions. Reference in this connection may be made to the judgment of the Supreme Court in Surjit Singh Vs. State of Punjab and Others, and State of Punjab and Ors. vs. Mohan Lal Jindal, 2001 (9) SCC 217

8. The preliminary objections raised by the State as have been noted above need to be straightaway rejected. Delay in this case has actually been caused by the State in refusing a justified claim despite repeated recommendations made by this Court. In so far as right of petitioner for reimbursement of mediclaim is concerned, it could not be disputed during the course of arguments that a government employee is entitled to the same. Simply because the right of a government employee for medical reimbursement may not be a fundamental right it cannot be said that the writ petition would not be competent. Once such a right is recognized, denial thereof would certainly entitle a citizen to invoke jurisdiction of this Court under Article 226 of the Constitution of India.

9. In view of above authoritative pronouncement of this Court, it is clear that rejection of medical reimbursement bill of the petitioner on the ground that Santokba Durlabhji hospital was not recognized hospital, is not tenable in the eye of law and impugned order is, therefore, liable to be quashed and set-aside. All that the Government can do is to reimburse the petitioner at the rates that may be applicable in the recognized government institutions and in this connection, the petitioner has referred Clause (b) & (c) of Sub-section (ii) of Section 4B of the Rajasthan State Pensioners Medical Concessions Scheme.

10. In view of above, the writ petition is allowed. The impugned order (Annexure-4) dated 11th September, 2007 is quashed and set-aside. The respondents are directed to make the payment of medical bills raised and furnished by the petitioner in terms of above scheme with interest @ 6% per annum from the date of presentation of bill till actual payment.

11. All exercise and compliance of aforesaid order be made within a period of three months from the date of submission of this order.

12. No order as to costs.