
(2014) 03 RAJ CK 0155
In the Rajasthan High Court
Case No : Civil Writ Petition No. 6350 of 2005

Jawahar Lal Bohra

APPELLANT

Vs

State of Rajasthan

RESPONDENT

Date of Decision : 26-03-2014

Acts Referred:

Citation : (2014) 3 CDR 1370 : (2014) 4 RLW 3318 : (2014) 3 SCT 242 : (2015) 2 WLN 178

Hon'ble Judges : Vineet Kothari, J

Bench : Single Bench

Advocate : Vikas Balia, Advocate for the Appellant; Sunil Joshi for Rajesh Panwar, AAG, Advocate for the Respondent

Judgement

Vineet Kothari, J.—The petitioner having retired as Superintending Hydrogeologist from the Ground Water Department of the respondent State Government in the year 1997 is before this Court by way of present writ petition, which was filed on 22.10.2005 with the following prayers:-

This petition for writ, in the nature of mandamus may kindly be allowed. By an appropriate writ, order and direction:-

- i). The impugned communication dated 23.03.2005 (Annex. 3) and 15.07.2005 (Annex. 7) may kindly be quashed and set aside.
- ii). Their respondents may kindly be directed to immediately make the payment of the expenses incurred by the petitioner in his treatment to the tune of Rs. 3,16,016/- only.
- iii). That the respondents may further be directed to make the payment of the interest @ 18% to the petitioners.
- iv). Any other appropriate relief, which this Hon'ble Court deems fit and necessary in the facts and circumstances of the case, be granted.

v).Cost of the writ petition be ordered to be awarded in favour of the petitioner.

For the surgical intervention made for his heart ailment for the disease, "Mitral Valve Replacement and Ticuspid Valve Repair", the petitioner took this treatment in the Asian Heart Institute, Mumbai, in the year 2004. It so happened that the petitioner after his retirement in 2004 went to Bhiwandi, District: Thane, in the State of Maharashtra near Mumbai on 04.11.2004 to meet the family of his two sons who were living there and to celebrate the "Diwali" there but unfortunately he fell ill there and in an emergency he was admitted in the Asian Heart Institute, Mumbai, where after initial Angiography done on 30.11.2004 on the further medical advice on 04.12.2004 he was again operated and in a open heart by-pass surgery, the "Mitral valves" were replaced in his heart. After remaining in the said Asian Heart Institute, Mumbai, for some time, he was discharged on 18.12.2004. Upon return from Mumbai to Jodhpur, the petitioner claimed a sum of Rs. 3,13,016/- from the respondent-State after deducting a sum of Rs. 1 lac from the total medical expenses of Rs. 4,13,516/-, already received by him from the insurance company for the medi-claim made by him from the said insurance company. However, his claim has been entirely rejected by the respondent-State by the impugned order (Annex. 3) dated 23.03.2005 on the ground that the Asian Heart Institute, Mumbai, was not in the list of recognized hospitals by the State Government and, therefore, the claim of the reimbursement made was liable to be returned back unpaid.

2. Upon issuance of the notices in the present writ petition, the respondent-State has filed a reply to the writ petition and alongwith the reply to the writ petition they have also filed a copy of the order dated 19.12.2004 as Annex. R/3 giving the limits of costs of same equipments for such reimbursement by the State and also laying down the guidelines for the treatment of heart ailment in a recognized hospital outside the State with or without the recommendation of the Medical Board to the extent of 80% of the hospital expenses incurred by the patient. The equipments, the cost of which is reimbursable as per the said order dated 19.12.2004 are only Pacemaker, Angioplasty or Balloonplasty or for Stent (s) used in such Angioplasty in cases of heart known as "Cardio-Thoracic Surgical" in a recognized hospital outside the State in emergent circumstances without any recommendation of the Medical Board. The said order permits reimbursement to the extent of 80% of the hospital expenses, limited to Rs. 48,000/- i.e. 80% of the general ward charges of AIIMS, Delhi, provided that a certificate from a Cardiologist, who hold a decree of D.M. in Cardiac or MCH in Cardio Thoracic Surgery, stating that the pensioner's condition was such that immediate treatment was essential, is so furnished by the claimant.

3. Learned counsel for the petitioner, Mr. Vikas Balia, submitted that the case of the present petitioner, a retired Government servant, falls under Rule 6 of the 1970 Rules and not under Rule 7. He submitted that the petitioner took the treatment for his heart ailment in the Asian Heart Institute, Mumbai, in an emergency when he was otherwise out of station (Jodhpur) to be with the family

of his two sons at Bhiwandi, District; Thane, State of Maharashtra, which is near Mumbai and the Bombay Hospital, Bombay, which is the recognized hospital in Appendix-11, of the said Medical Attendance Rules, 1970, was farther away from the Asian Heart Institute, and which would have taken at least two more crucial hours in Mumbai traffic and which could be fatal for the patient in that emergency; and therefore, the petitioner deserved to be reimbursed the full actual cost of medical treatment or at least at the rates for the same treatment if the same were to be given in Bombay Hospital, Bombay, which is the recognized hospital in the Appendix-11 of the said Rules of 1970 but his claim could not be rejected altogether. He also submitted that the contention raised by the learned counsel for the respondents-State that since the petitioner got that reimbursement from the insurance company to the extent of Rs. 1 lac, therefore no reimbursement of the medical bill in present case can be made to the petitioner, is wholly misconceived and even if the petitioner got a part of the claim under a separate insurance contract entered into with the insurance company which amount has already been deducted while making the claim with the respondent-State and there is no duplicacy of the claim to that extent, therefore, it does not and cannot dis-entitle the present petitioner from getting the reimbursement of the remaining medical expenses incurred by the him in a treatment outside the State of Rajasthan, which is permitted under Rule 6 of 1970 Rules.

4. On the other hand, Mr. Rajesh Panwar, AAG and Mr. Sunil Joshi, learned counsel for the respondent-State, submitted that the rejection of the claim of the present petitioner was justified, since the Rule 2 of Sub-rule (2) of the Rules of 1970 does not make applicable the Rules of 1970 to the Government servant, who proceeded outside the Rajasthan on leave with the object of securing medical attendance outside the Rajasthan for themselves or for their family member. In the alternative, Mr. Rajesh Panwar, learned Addl. Advocate General and Mr. Sunil Joshi, Assistant to learned AAG, urged that under the order (Annex. R/3) the financial limits have been prescribed by the State Government under the order dated 19.12.2004 and the petitioner is not entitled to the reimbursement over and above these limits and since the Asian Heart Institute, where the petitioner got admitted himself and had undergone bypass surgery, requiring a replacement of valve in his heart, is not a recognized hospital by the State Government, therefore, the rejection of the claim of the present petitioner was justified and the present writ petition filed by the petitioner deserves to be rejected.

5. I have heard the learned counsels at some length and given my thoughtful consideration to the rival submissions and the relevant material placed before the Court.

6. The total rejection of the claim of the petitioner in the present case does not seem to be justified at all. The Rules 6 and 7 of the 1970 Rules, which are quoted below, clearly and unambiguously envisage a situation, where a

Government Servant or a retired Government servant/pensioner going outside the State of Rajasthan, may have to take treatment in a hospital outside the State of Rajasthan in an emergency, is also entitled to the reimbursement of the treatment expenses incurred by him. Rule 6 of the 1970 Rules clearly stipulates that a Government Servant and his family member posted to a station or sent on duty or spending leave or otherwise at a station outside the Rajasthan in India and who falls ill, shall be entitled to free medical attendance and treatment as an indoor and outdoor patient in the hospital maintained by the Central or other State Government on the scales and conditions, which would be admissible to him under these Rules had he been on duty or on leave in the State of Rajasthan. The Rules 6 and 7 quoted below for ready reference:-

6. Medical attendance and treatment outside Rajasthan. (1) A Government servants including members of his family posted to a station on duty or spending leave or otherwise at a station outside Rajasthan in India and who falls ill shall be entitled to free medical attendance and treatment as an indoor and outdoor patient in a Hospital maintained by the Central Government or other State Government on the scale and conditions which would be admissible to him under these rules, had he been on duty or on leave in Rajasthan.

(2) For the purpose of this rule "Authorised Medical Attendant" in respect of a Government servant or to class of Government servant at a station outside Rajasthan shall mean an officer of Medical Department of Central or other State Government (as the case may be) on duty in a Government Hospital or Dispensary at that station.

(3) The charges paid by the Government servant posted at Delhi to the following private hospitals/clinics for X-Ray, Pathological, Bacteriological, Radiological tests and other kind of investigations which are considered necessary by the doctor of the State Government posted in Delhi, shall be re-imbursed:-

1. Sunderlal Jain Charitable Hospital, Ashok Vihar,
2. Massonic Charitable Polyclinic, Janpath, and
3. Sir Gangaram Hospital, Rajendra Nagar.

7. Treatment of a disease for which treatment is not available in the State. (1) A Government servant and the members of his family suffering from a disease for which treatment is not available in any Government hospital in the State shall be entitled to medical attendance and treatment to the extent indicated in sub-S. rule (2) of this rule in a Hospital/Institution outside the State recognised by the Government, provided that it is certified by the Principal of a Medical College/ Director of Medical & Health Services on the basis of opinion of the Authorised Medical Attendant to the effect that the treatment of a particular disease from which the patient is suffering is not available in any Government Hospital in the State and it is considered absolutely essential for the recovery of the patient to have treatment at a hospital outside the State.

(2) The following charges/expenses shall be reimbursable:-

(a). Cost (including Sales Tax) of Allopathic Drugs, Medicines, Vaccines, Sera or other therapeutic substances reimbursable under these rules.

(b). Sums actually paid to the Hospital/Institution on account of medical attendance and treatment including charges for surgical operations and ordinary nursing facility.

(c). Travelling allowance for journey by rail/road from duty point at the station at which the patient falls ill to the place of treatment outside the State and back to a single fare of the class to which his classification entitles him under Rajasthan Travelling Allowance Rules. Such travelling allowance shall also be admissible for an attendant, if the Authorised Medical Attendant certifies in writing that it is unsafe for the patient to travel unattended and that an attendant is necessary to accompany the patient to the place of treatment and back.

(3) The facility of medical attendance and treatment in the type of cases mentioned in sub-rule (1) can be had at any of Hospitals/Institutions mentioned in Appendix-11.

(4) For the purpose of reimbursement, the original receipts issued by such Hospital/Institutions and vouchers of medicines etc. shall be countersigned by the Authorised Medical Attendant of Government Hospital on whose advice the treatment outside the State was undertaken.

7. The words "otherwise" in the preamble of the sub-rule (6) of Rule 6, therefore, clearly permits a Government Servant or a pensioner who is outside the State of Rajasthan, otherwise than being on duty or on leave, or and not specifically going out of State for the purpose of medical attendance, is also entitled to the reimbursement of expenses incurred by him for such treatment outside the State of Rajasthan taken in an emergency, of course, subject to the limits prescribed therein.

8. Rule 6 of 1970 Rules, however, gives a list of only 3 recognized hospitals at Delhi only viz:-

1. Sunderlal Jain Charitable Hospital, Ashok Vihar,
2. Massonic Charitable Polyclinic, Janpath, and
3. Sir Gangaram Hospital, Rajendra Nagar.

9. As against this, the Rule 7, which provides for treatment of a disease for which treatment is not available within the State of Rajasthan, upon the necessary certificate issued by the local medical officer that such treatment is not available within the State of Rajasthan for such treatment outside the State of Rajasthan is also permitted in the recognized hospitals, and a list of 14 such hospitals is given in Appendix-11 of these Rules of 1970, which includes even the Bombay Hospital, Bombay. The said 11 hospitals as per Appendix-11, are:-

1. All Indian Institute of Medical Science, New Delhi.
2. Tata Memorial Hospital, Bombay;
3. Chritian Medical College Hospital, Vallore
4. Cancer Institute, Madras
5. Irwin Hospital, New Delhi.
6. Lady Hardinges Medical College, New Delhi (for women and children).
7. J.J. Hospital, Bombay,
8. Jas Lok Hospital, Bombay,
9. Gujarat State Cancer & Research Institute (M.P. Shah Cancer Hospital), Ahmedabad.
10. Post Graduate Institute & Medical Education Research Centre, Chandigarh.
11. Bombay Hospital, Bombay.

10. The incongruity and inconsistency in the list of recognized hospitals for the two rules, viz. Rule 6 and 7 of the same Medical Attendance Rules, does not stand a judicial scrutiny. If under Rule 6, a Government servant who is posted out of Rajasthan or spending leave or is otherwise outside the State of Rajasthan, falls sick and gets his treatment in an emergency, he may not be entitled to reimbursement, whereas for a person for whom the treatment which is otherwise not available within the State of Rajasthan and goes out of State for such medical attendance, he will get the reimbursement, if he takes such treatment in such 11 specified hospitals, most of which are in Delhi, Mumbai or Vallore only.

11. While Rule 7 requires a pre-applicability certification by the competent authorities of the Medical and Health Department that such treatment is not available within the State of Rajasthan, Rule 6 does not envisage any such a certification by local Medical authorities.

12. The recognition given to only 3 hospitals of Delhi for the purposes of Rule 6, while specifying 11 hospitals for Rule 7 at Delhi and Mumbai, also does not have any logical reasoning or rational nexus behind it. If the contingency of taking the treatment outside the State of Rajasthan, for the reasons beyond the control of the Government servant or in any emergency is duly recognized as a fact entitling the Government servant for such reimbursement, the specification of different set of hospitals for two different rules, and that too to a very limited extent of number of hospitals at a few places only viz. Delhi or Mumbai, can only be construed as making the applicability of the said Rules ineffective even though the purpose of these Rules is to make the reimbursement of expenses subject to fulfillment of other conditions. For this reason on a harmonious construction of both these Rules 6 & 7 of the Rules of 1970, this Court may have to even invoke

and apply even the Appendix-11, list of hospitals, for the reading the same with the Rule 6 of 1970 Rules, and not restricting the same for Rule 7 only. Even though, the petitioner took his treatment in the Asian Heart Institute, Mumbai, and not in the Bombay Hospital, Bombay, which is included in the Appendix-11 of the Rules of 1970, which is to be read with both Rule 6 & 7, the purpose of the aforesaid harmonious construction is to allow the reimbursement of medical expenses to the petitioner at least to the extent of the rates applicable in the recognized hospital of the State Government at Mumbai, namely, Bombay Hospital, if not, the actual expenses incurred by him in the Asian Heart Institute, Mumbai. Not doing so would obviously render the petitioner remediless and without any reimbursement in the present case, which will defeat the purpose and objective of the 1970 Rules.

13. The contention of the learned counsel for the respondent-State that sub-Rule (2) of Rule 2 makes 1970 Rules inapplicable to the Government servant who proceeds outside the State of Rajasthan, with the object of securing medical attendance outside the State of Rajasthan, is not applicable in the facts of the present case because the petitioner never left the State of Rajasthan on 04.11.2004 for the purpose of getting such medical attendance at Mumbai. On the contrary, he unfortunately fell ill and suffered the cardiac problem when he was otherwise at Mumbai to being with the family of his two sons at Bhiwandi, District: Thane in State of Maharashtra and near Mumbai, and upon falling ill there, in an emergency, he was taken to the Asian Heart Institute, Bandra Kurla Complex, where the aforesaid treatment was given to him.

14. As far as the Government order dated 19.12.2004 (Annex. R/3) is concerned, firstly the equipment used for treatment of the present petitioner, namely the mitral valve, is not even included in the list of the equipments specified in the said Government order, which includes only Pacemaker, Stent (s) in Angioplasty/Balloonplasty. The medical science develops from time to time and may be, at the time when this order was issued in the year 2004, such treatment which was given to the petitioner in the Asian Heart Institute, Mumbai, was not even possible in the State of Rajasthan and that is why only the equipments, which were in use within the State of Rajasthan, were so specified in the said Government order dated 19.12.2004. This seems to be the reason because the new Para. 4-E of the said Government order, clearly permits for treatment of heart ailment in the recognized hospital outside the State of Rajasthan with or even without recommendation of the local Medical Board. Therefore, the State Government was obviously aware of its own limitation and infrastructure available within the State of Rajasthan for such treatment and, therefore, did not even specify all possible equipments in the said order.

15. During the course of arguments, learned counsel for the petitioner also produced for perusal a copy of the composite bill of Rs. 3,79,860.42 of the Asian Heart Institute, which separately does not specify the cost of valves, but cost of Rs. 2,90,610/-, in the said Bill No. ICO-195 dated 18.11.2004 of the Asian Heart

Institute towards the "Cardiac Muscular and Thoracic Surgery". Thus, the equipments or valves for the heart surgery which were actually used in the case of the petitioner are not even specified in the relevant Government Order dated 19.12.2004, relied upon by the learned counsel for the respondent-State, and this is all the more a good reason to make the full reimbursement of the expenditure actually incurred by the petitioner for his treatment outside the State of Rajasthan.

It would be relevant to quote the aforesaid Government order dated 19.12.2004 to the relevant extract herein below:-

Government of Rajasthan

Finance Department

(Rules Division)

Order

No. F. 1(6) FD(Rules)/2002

Jaipur, dated: 19.12.2004

Subject: Scheme for grant of Medical Concession to State Government Pensioners.

The Governor is pleased to make the following amendments in the Rajasthan State Pensioners Medical Concession Scheme, namely-

In the said Scheme-

1. The existing words "Implantation of Pacemaker and Angioplasty/Balloonplasty" appearing in the sup-para. 4B(i) shall be deleted and the existing sub-para. 4B(ii) may be re-numbered as sub-para. 4B(iii) and new sub-para. 4B(ii) may be inserted as under:-

(ii) A pensioner and the members of his family as defined in sub-para. (5) of para. 3 of the scheme shall be entitled for grant of financial assistance in respect of specialized treatment of Implantation of Pacemaker and Angioplasty/Balloonplasty taken in Government Hospital within the State of Rajasthan as under:-

(a). Pacemaker Actual cost of Pacemaker subject to the maximum of Rs. 60,000/-

(b). Angioplasty/ Balloonplasty Actual cost of Pacemaker subject to the maximum of Rs. 35,000/-

(c). For Stent/Stents Actual cost of Pacemaker subject to the maximum of Rs. 75,000/-

2. The existing para. 4E shall be substituted by the following, namely:-

4E. Treatment of heart ailment in recognised hospital outside the State (with or

without the recommendation of the Medical Board) (w.e.f. 5.8.2004).

(a) In case it is recommended by the Medical Board that by-pass surgery for heart is indicated, the pensioner can get himself operated in any of the hospitals recognized by the Government outside the State for this purpose. Such pensioner may be allowed 80% of hospital expenses limited to Rs. 48,000/-, being 80% of General Ward charges of All India Institute of Medical Sciences, New Delhi.

(b) In case a pensioner undergoes by-pass surgery of heart (Cardio thoracic surgery) in any recognised hospital outside the State in emergent circumstances without any recommendation of the Medical Board, he may be allowed 80% of hospital expenses limited to Rs. 48,000/- i.e. 80% of General Ward charges of AIIMS, New Delhi provided that he submits a Certificate from a Cardiologist who holds a degree of D.M. in Cardiology or MCH in Cardio Thoracic Surgery stating that pensioner's condition was such that immediate treatment was essential.

(c) In case a pensioner takes treatment of Angioplasty/Balloonplasty and stent (s) in recognised hospitals outside the State, he/she may be allowed financial assistance as under:-

(i) For Angioplasty/Balloonplasty Actual amount of expenditure incurred subject to maximum of Rs. 35,000/-

(ii) For Stent/Stents Actual cost of Stent/Stents subject to the maximum of Rs. 60,000/- (80% of Rs. 75,000/-)

16. This Court also does not find any force in the contentions raised by the learned counsel for the respondent-state that since the petitioner got a sum of Rs. 1 lac from the insurance company under a separate insurance cover taken by him in his medi-claim for the same treatment and there is no duplicacy or repeated claim made by the petitioner in this regard and the aforesaid sum of Rs. 1 lac has already been deducted by the petitioner from the total bill of Rs. 4.13 lacs. The reimbursement of insurance claim under a separate contract has no overriding effect and cannot negative the claim of the petitioner from the State under the Rules of 1970 in its entirety. The fact that the petitioner has not claimed the already reimbursed part of his medical claim from the State Government, shows the bona fides of the present petitioner and his honest behavior.

17. The contention raised by the learned counsel for the respondent that since the Asian Heart Institute, Mumbai was not the recognized hospital by the State Government, and therefore, the claim of the petitioner could not be accepted, is also a contention not worthy of acceptance. Firstly, as aforesaid the limited number of hospitals outside the State of Rajasthan, which have been included in the 1970 Rules, makes it a miserably narrow list of such speciality hospitals, which can provide the treatment in complicated cases. Prescribing the hospitals of only at two stations of Delhi and Mumbai also does not seem to have any

rational nexus. The point of time at which the list of these hospitals were prescribed also goes back to many years before the treatment in the present case was taken by the petitioner or may be taken by other similarly situated persons later on. It is true that 1970 Rules have since been replaced by the State Government by another set of Medical Attendance Rules in the year 2008 and then again by the another set of new Rules in the year 2013 but the fact remains that the present case is covered by the Rules of 1970 which held the field up-to the year 2008 and in the present case, the petitioner having undergone that treatment for his heart ailment in the year 2004 will be admittedly covered by the Rules of 1970. Therefore, if the aforesaid list of Hospitals for Rules 6 or 7 of the 1970 Rules was to restrict the claims of the Government Servants or the retired Government servants/pensioners, the very purpose of making of provisions for the reimbursement of such medical expenses under the 1970 Rules will be frustrated, if the State was to be allowed to negate such claims in all other cases. Such cannot be the intention of the medical attendance rules in question. Therefore, on the principles of the harmonious construction in the present case, the petitioner is held entitled to the reimbursement of his medical expenses incurred by him.

18. Apparently and avowedly, these medical attendance Rules providing for reimbursement of the medical expenses to the Government servant and retired pensioners, is a beneficial and welfare legislation meant for the welfare of the Government servants and, therefore, a liberal, sympathetic and objective interpretation for the applicability of these Rules, has to be made by the Courts and not a pedantic or narrow approach of the matter would sub-serve the interest of justice.

19. In the aforesaid facts and circumstances the case, this Court would have directed the complete reimbursement of the expenses incurred by the petitioner and as claimed by him, because the relevant facts are not being disputed by the respondent State of his disease, treatment in the Asian Heart Institute, Mumbai, or actual incurring of the expenses but as the Rule exist, the aforesaid harmonious construction of the two Rules is possible in the facts of the present case and that is why this Court would dispose of this writ petition by directing the respondent-State to re-consider the medical reimbursement claim made by the petitioner to the extent of the expenditure, if such actual treatment had been taken by the petitioner in the specified recognized Government Hospital, namely, Bombay Hospital, at Mumbai. The reimbursement of claim to that extent cannot be disputed and denied by the respondent-State, otherwise it will be negation of the rights of the pensioner or the Government servant to claim such reimbursement under the 1970 Rules. It may be noted here that the applicability of these Rules has not been questioned by the respondent-State except the contentions raised to the extent of sub-rule (2) of Rule 2, which has already been negated by this Court above. Therefore, the State is bound to reimburse the medical expenses, where a case is covered by either of the Rule 6 or 7 of the Rules of 1970 at least at the rates of nearest recognized hospital under any of

the Rule 6 or 7 outside the State of Rajasthan, where the patient or Government servant has taken the treatment in a hospital outside the State of Rajasthan in an emergency and such claims cannot be altogether rejected.

20. The details and the range of expenditure at the Bombay Hospital, the recognized hospital, is however not available on the record of the Court. Therefore, any specific direction to reimburse the claim of the petitioner to a particular extent, cannot be made in the present case. Though the learned counsel for the petitioner submitted that he has available those rates of the Bombay Hospital, of the year 2002 but in the present case, the treatment was taken by the petitioner in the 2004, when the rates may be and presumably would be different, depending on the facility of such treatment available in Bombay Hospital at that point of time. Therefore, it remains to be verified as to what were the rates applicable for such treatment, which the petitioner actually undertook in the Asian Heart Institute, in the year 2004 in Bombay Hospital, at that point of time. The respondent-State through its Medical & Health Department, can very well verify such rates and ascertain such information from the authorities of the recognized hospital, namely, Bombay Hospital, Mumbai, even now. If the Bombay Hospital, Mumbai, does not provide any such information or verification within stipulated time frame, the entire claim of the petitioner of actual expenditure incurred by him of Rs. 3,13,016/- shall be reimbursed to him.

21. Therefore while holding the petitioner entitled to the reimbursement of his medical expenses for his treatment for heart ailment, which he took in Asian Heart Institute, Mumbai, for such reimbursement as per Rule 6 of the 1970 Rules, this writ petition is disposed of by directing the Director of the Medical and Health Department of the State Government to forward the relevant papers of the actual treatment taken by the present petitioner at the Asian Heart Institute, to the Bombay Hospital, Mumbai and request them to supply the information with regard to the expenses which would have been incurred in the Bombay Hospital, had the petitioner taken this treatment actually in Bombay Hospital itself at that point of time. Upon such information being received, the amount as permissible and chargeable by the Bombay Hospital, may be paid to the present petitioner against his claim of actual expenses incurred by him for his treatment in Asian Heart Institute, Mumbai. It is needless to say that if such charges by Bombay Hospital are shown to be more than the claim raised by the petitioner, only the amount as claimed by the petitioner shall be reimbursed to him and on the other hand, if the charges quoted by the Bombay Hospital are less, than the amount claimed by the petitioner, then such lesser amount would be reimbursed to the petitioner. If the amount so ascertained and paid to the petitioner is significantly less than the amount claimed by the petitioner, the petitioner will be free to make appropriate representation to the respondent Joint Director of Medical and Health Department, Jodhpur, who shall decide such representation by a speaking order and direct complete reimbursement to the petitioner or his authorised representative as per his aforesaid claim exercising the powers of

relaxation under Rule 12(2) of the Rules of 1970. The aforesaid exercise may be undertaken and completed within a period of 3 months from today since already a long period of 10 years has already passed by since the petitioner underwent the said treatment at Mumbai in the year 2004. The writ petition is, accordingly, disposed of. No costs. A copy of this order be sent to the concerned parties forthwith.