

(2005) 01 RAJ CK 0023
In the Rajasthan High Court
Case No : Civil Writ Petition No. 2748 of 2004

Kailash Prasad Gupta

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 19-01-2005

Acts Referred:

Citation : (2005) 3 RLW 1828 : (2005) 2 WLC 111

Hon'ble Judges : Asok Parihar, J

Bench : Single Bench

Advocate : RD Rastogi, for the Appellant; Sanjeev Sogarwal, on behalf of G.S. Gill, A.A.G., for the Respondent

Final Decision : Allowed

Judgement

Ashok Parihar, J.—This is yet another case of pathetic insensitive attitude and mechanical approach of the authorities concerned.

2. The petitioner, being retired from Government Service, is member of the Rajasthan State Medical Pensioners' Concession Scheme. Under the provisions of the scheme, the wife is also entitled for free medical aid. As has been submitted by the petitioner, his wife Smt. Laxmi Devi has been suffering from ailments of Diabetes, High Blood Pressure, Thyroid, Heart & Kidney Diseases. Her condition became serious on 27.04.2003 and at about 1"O clock in the mid night, she was rushed to nearby clinic where the Doctor concerned referred her to SMS Hospital/ Santokba Durlabhji Memorial Hospital, Jaipur where intensive care treatment was available. It has been submitted that the petitioner took his wife in the critical condition to SMS Hospital, Jaipur. However, in the emergency ward neither immediate care was taken nor any prompt assistance was given. Under the circumstances, there was no option for the petitioner but to take his wife to Santokba Durlabhji Memorial Hospital, Jaipur where she was immediately admitted in the I.C.U., Wife of the petitioner had to be hospitalized from 27.04.2003 to 21.06.2003, however, in spite of best efforts made by the Doctors, the patient ultimately expired on 21.06.2003. The medical reimbursement has

been denied to the petitioner only on the ground that the treatment was taken in a private hospital not recognized by the State Government.

3. Time and again, this Hon'ble Court, Apex Court as also other High Courts have expressed their anxiety over denial of immediate medical treatment in the Government Hospitals and further denial of reimbursement to the patients only on the ground that the treatment has been taken in a private hospital.

4. This Court in the case of Himmat Singh v. State of Rajasthan and Ors., SB Civil Writ Petition No. 5703/2003, decided on December 22nd, 2004 has observed that in the case of saving a human life at a given point of time it is not expected of an attendant to look into the list and then hunt for the recognized hospital. In case of grave emergency whichever hospital comes to the mind of the attendant and which hospital is considered just for saving the life of the patient is the prime consideration. Such decisions are sometimes crucial for saving the life of an individual. Emergency knows no law and no procedure. The emergency act when required to be committed should not be weighed in terms of money especially when human life is at stake and in such situation even the ultimate responsibility of the State cannot be washed out. The Court has further observed that in a welfare State, the welfare of the people is frustrated just because of bureaucratic approach of the concerning authorities. A person having put in whole life in the services of the State till he attains the age of superannuation always require human considerations. Technicalities of the rules and regulations are not required to be followed just in a mechanical manner so as to frustrate the very purpose of the scheme.

5. In the present case also, the petitioner has explained the emergent situation and circumstances under which he had to rush his wife to a private hospital. However, as the ill fate would have it, in spite of the best efforts, the life could not be saved. Presently the petitioner is not claiming any compensation for the death of his wife, but has only asked for reimbursement of the expenses incurred by him on the medical treatment given to his wife under a scheme for which he has been contributing during his service tenure. It may be pertinent to mention here that pathetic conditions of Government hospitals is well known and the same has been admitted by the Government machinery also time and again. Under the circumstances, when a person explains reasons for getting the treatment in a private hospital, the reimbursement should not be denied only on some hyper technical grounds. The Government must make relaxation in such matters under exceptional circumstances.

6. Bonafides of the petitioner and genuineness of the bills submitted by the petitioner for reimbursement cannot and should not be disbelieved, still the same can always be verified from the hospital concerned. Even an affidavit duly attested by a notary public is sufficient for verification of the bills so submitted for reimbursement.

7. Accordingly, the writ petition is allowed. The respondents are directed to

reimburse the bills so submitted by the petitioner and make the payment within thirty days from the date of receipt of certified copy of this order. The petitioner may also submit an affidavit certifying the bills along with the copy of this order. Since the petitioner has been put to a great agony and mental pressure by insensitive approach of the authorities concerned, I deem it proper to allow a cost of Rs. 10,000/- also to the petitioner which may be paid along with the amount of reimbursement.