
(2015) 01 RAJ CK 0032
In the Rajasthan High Court
Case No : Civil Writ Petition No. 206/2009

Kamala Shankhala

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 22-01-2015

Acts Referred:

Citation : (2015) 01 RAJ CK 0032

Hon'ble Judges : Sandeep Mehta, J.

Bench : Single Bench

Advocate : Rajat Arora for Vinod Purohit, for the Appellant; N.S. Rajpurohit, A.G.C., Advocates for the Respondent

Final Decision : Allowed

Judgement

Sandeep Mehta, J.—By way of the instant writ petition, the petitioner seeks a direction to be issued to the respondents to reimburse the medical expenses borne by her in her own treatment, which she had to undergo in an emergent condition at the Miot Hospital, Manapakkam, Chennai in December 2002.

2. The petitioner is a retired Dy. District Education Officer (Women) from the Education Department of the State of Rajasthan. She retired from service on 30.9.1980 and was issued with a PPO and also a medical diary by the respondents. She is a permanent resident of Sirohi.

3. It is averred in the writ petition that the petitioner had gone to a pilgrimage to southern India. During her visit, she stayed at Chennai where she slipped and fell down and received fracture of leg and right hip. Accordingly, she was admitted in an emergent condition at the Miot Hospital, Manapakkam, Chennai. She remained admitted at the said hospital between 16.12.2002 to 22.3.2002 where she underwent treatment for above fracture of leg and right hip wherein a total sum of Rs. 57,361/- was spent. The petitioner submitted the bills of medical expenses to the respondent department and claimed reimbursement thereof but the same was not accepted by the respondents. Hence, the petitioner has

approached this Court for issuance of a writ or order to the respondents to reimburse the medical bills of the petitioner.

4. Learned counsel for the petitioner submits that the petitioner had gone to Chennai on a pilgrimage and there, she had to undergo treatment in an emergent condition and as such, it was absolutely impossible for her to have approached a government hospital in the State of Rajasthan or a recognized hospital for her treatment of sudden ailment. He relies on the decision of this Court in the case of *Jawahar Lal Bohra Vs. State of Rajasthan* (S.B. Civil Writ petition No. 6350/2005) decided on 26.3.2014 and prays that the writ petition deserves to be accepted and the respondents be directed to reimburse the medical expenses incurred in the treatment of the petitioner in accordance with Rajasthan State Pensioners Medical Concession Scheme.

5. Learned counsel for the respondents has vehemently opposed the submissions advanced by the learned counsel for the petitioner. However, he candidly conceded that in similar matters, this Court has directed reimbursement of the medical expenses borne by the retired employees at the rate which is applicable for similar treatment in Recognised/Government hospitals.

6. The controversy regarding the entitlement of the retired government employees to receive medical reimbursement has already been settled by this Court in a catena of decisions including the judgments rendered in the case of *Gyanendra Kumar Pareek Vs. State of Rajasthan and Others*, and in the case of *Jawahar Lal Bohra Vs. State of Rajasthan* (S.B. Civil Writ petition No. 6350/2005) decided on 26.3.2014.

7. It is not in dispute that the petitioner, a retired employee, had gone to Chennai and slipped at the house and suffered fracture of leg and right hip. She was admitted in an emergent situation in the Miot Hospital, Manapakkam, Chennai and remained hospitalized as stated above. Definitely and without any doubt, it was on account of an emergent condition that the petitioner had to be subjected to treatment at a hospital outside the State of Rajasthan. In such situation, the petitioner is entitled to be reimbursed with medical expenses borne by her in the treatment at the Miot Hospital, Manapakkam, Chennai in accordance with the Rajasthan State Pensioners Medical Concession Scheme.

8. This Court considered the issue of emergent situation in the case of *Gyanendra Kumar Pareek Vs. State of Rajasthan and Ors.* Reported in 2009 (4) WLC (Raj.) 95 and held that when a family member suffers from sudden ailment, the prime objective of the other family member would be to save his/her life. At that time, services of whichever hospital is suited could be utilized 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 off. This Court relied upon the decision of the Division Bench of this Court in *Anil Kumar Surolia Vs. State of Rajasthan and Others*, wherein the Division Bench observed as under:-

"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 institution. Reference in this connection may be made to 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 reported in (2001) 9 SCC-217. Consequently, the reimbursement of the medical expenses borne by the State Government employees and pensioners has to be done even if the treatment is undertaken at unrecognized hospital outside the State even though reference may not have been taken prior to treatment." 9. Thus, as per scheme of medical concession applicable to the retired employees, the only hurdle against the petitioner for being granted reimbursement of the medical bills is that she was subjected to treatment at an unrecognised hospital outside the State and that too without a reference being made. However, as has been noted above, the Division Bench of this Court has already laid the issue to rest by observing that even if the treatment is taken at an unrecognized hospital and without any reference, the reimbursement thereof has to be done at the rates prescribed in the Concession Scheme. Another order came to be passed by the State Govt. on 21.12.2009 which completely puts the controversy to rest and reinforces the petitioner's claim for reimbursement. The order is quoted hereinbelow:-

"No. F. 1(6) FD(Rules)/2012 Jaipur dated 21 DEC 2009

Subject:- Reimbursement of cost of implants and reimbursement of medical attendance and treatment in private hospitals to pensioners/family pensioners under Rajasthan Pensioners Medical Concession Scheme.

State Government has decided to extend the facility of Medical Attendance and treatment to State pensioners/family pensioners in private or charitable hospitals, as applicable to State Government servants under Finance Department order No. F. 6(4)FD(Rules)/03 Pt.-I dated 27.11.2009 pertaining to the period prior to 19.06.2009.

Such claims of treatment shall be considered and decided by the Sub-Committee of the Trust."

10. As a consequence, the action of the respondents in not reimbursing the medical bills of the petitioner cannot be approved as being unjust and arbitrary.

11. Consequently, the petitioner is entitled to be reimbursed with medical expenses borne by her in the treatment at the Miot Hospital, Manapakkam, Chennai in accordance with the Rajasthan State Pensioners Medical Concession Scheme.

12. Furthermore for the period during which the reimbursement was not given to the petitioner, she is entitled to receive interest as well.

13. Accordingly, the writ petition is allowed and it is hereby directed that the

respondents shall reimburse the amount of medical expenses borne by the petitioner in the treatment at the Miot Hospital, Manapakkam, Chennai in accordance with the Rajasthan State Pensioners Medical Concession Scheme. The reimbursement shall be made within a period of four weeks from the date of receipt of copy of this order. Furthermore, the amount to be paid to the petitioner shall also carry interest @ 9% w.e.f. the date on which the bill was presented to the date of payment. If the payment is delayed beyond the period of four weeks, the amount due shall carry interest @ 12%.

14. No order as to cost.