
(1995) 04 P&H CK 0065

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 16879 of 1994

Kewal Krishan Sharma

APPELLANT

Vs

State of Punjab and Others

RESPONDENT

Date of Decision : 24-04-1995

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (1996) 112 PLR 477

Hon'ble Judges : M.L. Koul, J;G.S. Singhvi, J

Bench : Division Bench

Advocate : P.K. Goklaney, for the Appellant; Randhir Singh, Asst. A.G., for the Respondent

Judgement

G.S. Singhvi, J.—This petition has been filed for issuance of a direction to the respondents to release the actual medical re-imbursement charges to the petitioner as well as expenses incurred by him on post operation follow-up.

2. Petitioner, who is presently working as Superintendent, Canal Lining Division Ferozepur, suffered heart problem in 1992 and on the basis of the opinion of the Chief Medical Officer, Ferozepur, and Cardiologist at P.G.I. Chandigarh, he was referred to the Escort Heart Institute/All India Institute of Medical Sciences. Bypass surgery of the petitioner was done at All India institute of Medical Sciences on 18.12.1992, from where he was discharged on 28.12.1992. The petitioner submitted his case for payment of medical reimbursement to the respondents but no action has been taken by the respondents for payment of amount due to the petitioner by way of medical reimbursement and this, according to the petitioner, is the position despite his various representations. His case was forwarded by the Executive Engineer, Canal Lining Circle, Ferozepur to the Chief Engineer, Irrigation Department vide letter Annexure P-7 but no decision has been taken by the respondents. Petitioner claims that denial of medical reimbursement has caused him monetary loss and has also subjected him to mental strain and agony. His contention is that in view of the policy framed by

the Government, he has a right to the re-imbursement in respect of the expenses incurred by him on treatment at P.G.I. Chandigarh as well as at All India Institute of Medical Sciences, New Delhi.

3. In reply, the respondents have raised their usual stock plea that the petitioner had not submitted his application to the Director, Health Services Punjab, for prior permission to get treatment at the All India Institute of Medical Sciences in accordance with the circular dated 25.1.1991. Respondents have also pleaded that on account of lack of prior permission the competent authority could not grant reimbursement to the petitioner. Therefore, his case was referred to the Director, Health Services, Punjab for grant of ex-post-facto sanction and this has been done by the Director vide his letter dated 2.1.1995. Now the bills have been forwarded to the Finance Department and payment is likely to be made at an early date.

4. We have heard learned counsel for the parties and perused the record of the case. A look at Annexures P.1 and P.2 shows that the Civil Surgeon Ferozepur, as well as Dr. Y.C. Chandra Shekhar, who treated the petitioner for heart problem at P.G.I. Chandigarh expressed the opinion that the petitioner requires coronary artery by pass grafting. On 19.11.1992 petitioner was referred to the Escort Heart Institute/All India Institute of Medical Sciences. He was admitted in the institute on 7.12.1992 and was operated upon on 18.12.1992. These dates are sufficiently indicative of the urgency in the treatment of the petitioner. Therefore, the stand taken by the respondents that the petitioner is to be blamed himself for not having submitted his application in advance for prior permission, is wholly without substance. The condition in which the petitioner found himself, left him with no option but to go for immediate by-pass surgery because his three heart vessels were found to be blocked.

5. Even if we were to accept the plea of the respondents that the petitioner should have submitted an application for prior permission, the respondents cannot escape the consequences of abnormal delay in the grant of sanction, ex-post facto. A delay of more than two years in granting medical reimbursement to the petitioner is wholly unjustified and this delay has undoubtedly caused immense financial injury to the petitioner in addition to mental agony and suffering.

6. In a number of cases, this Court has stressed the need for expediting medical reimbursement to (he employees who have undergone by-pass surgery or similar treatment In *Sadhu Ram Pall v. State of Punjab*, 1994(1) R.S.J. 335, this Court has highlighted the need for urgent attention by the Government to the plight of the employees who are compelled to undergo treatment in emergency. This court observed:-

"There is no reason nor any has been pointed out to restrict the right of the petitioner to get the best medical treatment available in the country from an Institute recognised by the State Government. Since provision of free medical

treatment or reimbursement in lieu thereof is a beneficial act of the welfare State for its employees, the rules/instructions have to be construed liberally in favour of the employees for granting them the relief, rather than adopting a wooden attitude to deprive a person of his due. 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 A.I.I.M.S., New Delhi. We cannot lose sight of factual position in the A.I.I.M.S., New Delhi, i.e. with respect to the number of patients 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."

"Taking the States contention to its logical end, it would mean that a person who suffers a heart attack, should first get recommendation from the medical Board by appearing before it personally i.e. before getting himself treated, he should first get an approval for treatment from the medical board. In such circumstances as revealed in the instant petition, the petitioner would have never made it to the Medical Board as he in all probability would have died before the Medical Board could meet and examine him. In such disease and situations timely medical aid is of paramount consideration."

7. In C.W.P. 13792 of 1993, this court dealt with a case where treatment was taken by an employee in Apollo Hospital, Madras. While accepting the claim made by the petitioner for medical reimbursement, Court remarked:-

"We would also like to observe that as and when application is made by an employee for receiving medical treatment at a hospital/institute outside the State the concerned authority must apply its mind with great urgency and take a decision at the earliest so that complications like the one which has arisen in the present case do not arise in future and the employees are not compelled to come to the Court for seeking relief in matters like medical reimbursement. The Government authorities must adopt a more rational and humanist approach in these matters."

8. In view of the law laid down in the two cases referred to herein above, we find every justification to grant the prayer of the petitioner for medical reimbursement. We also find justification in the claim of the petitioner that he should be suitably compensated for the loss suffered by him in terms of money as well as mental agony and sufferance on account of failure of the respondents to reimburse his bills. Instead of awarding interest to the petitioner, we deem it proper to direct that the respondents shall pay Rs. 10,000/- to the petitioner by way of compensation for undue delay in the payment of medical reimbursement.

9. Consequently, the writ petition is allowed. The respondents are directed to

make payment of the amount claimed by the petitioner, after verification in respect of the treatment at P.G.I., Chandigarh. All India Institute of Medical Sciences, New Delhi and other Government hospitals. This payment be made to Mm within two months of the submission of a certified copy of this order. The petitioner shall get compensation of Rs. 10,000/-.