
(2008) 03 PAT CK 0057
In the Patna High Court

Lala Rajak

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 18-03-2008

Acts Referred:

Citation : (2008) 03 PAT CK 0057

Hon'ble Judges : Navin Sinha, J

Bench : Single Bench

Judgement

Navin Sinha, J.—Heard the learned Counsel for the petitioner and the learned Counsel for the State.

2. The petitioner who is employed as Director in the Ground Water Directorate, Minor Irrigation Department of the State Government is before this Court seeking reimbursement of the medical expenses incurred by him in treatment of his heart ailment for which he was operated at the Escort Heart Institute and Research Centre, New Delhi after diagnosis of his ailment was confirmed by the Director, Indira Gandhi Institute of Cardiology, Patna where he was admitted on 19.8.2005.

3. The petitioner made a claim for re-imbusement of medical expenses to the extent of Rs. 1,81,875.55 paisa. The respondents sanctioned a sum of Rs. 41,036.00 out of the same. The rest of the matter still remains pending consideration compelling him to approach this Court. In the order of release as aforesaid no explanation has been given for withholding rest of the claim for re-imbusement.

4. A counter affidavit has been filed on behalf of the respondents. It purports to place reliance on a Health Department's letter No. 2059 dated 27.5.1997 to support the release of the amount only as aforesaid even while it has stated in Para 6 that the matter is under consideration.

5. Learned Counsel for the petitioner has produced before this Court a government resolution dated 20.5.2006 bearing No. 1070(14) issued by the health and Family Welfare Department of the State Government. Item 3(ii) of the

same translated into English reads that re-imbursement of a medical claim upto Rs. Two lacs could be considered by the Department Secretary. It is only where claims were beyond Rs. Two lacs that the matter had to be forwarded to the Finance Department only where after a decision could be taken.

6. It has been noticed above that the total claim of the petitioner is for Rs. 1, 82,875.55 paise only. The authority for the decision for the Secretary in view of the Government instruction as noticed above. There is no explanation in the counter affidavit with regard to the reasons why the relevant governmental authorities compelling the petitioner to approach a writ Court.

7. Once the Government has framed the guidelines its employees are required to comply with the same upon pain of liability for non-compliance. That the matter may be considered by the Departmental Secretary and orders be passed thereupon is entirely a different matter. Present is clearly a case of non-compliance of government instruction.

8. The writ application is disposed of with a direction to the respondents to take a final decision on the claim of the petitioner with regard to his liability for reimbursement as claimed in accordance with the government policy decision dated 20.5.2006 as noticed above within a maximum period of four weeks from the date of receipt and/or production of a copy of this order.

9. This Court also considers it proper to direct the Secretary, Department of Health and Family Welfare to also hold an enquiry as to the reason why the claim for reimbursement of the petitioner was not considered by the authorities in terms of the government circular dated 20.5.2006 and disposed of accordingly, making the present proceedings completely avoidable reason and also why the government policy dated 20.5.2006 finds no mention in the counter affidavit when the duty of the State is to assist the Court to adjudicate the matter properly in the interest of justice and not to withhold vital information from the High Court preventing proper dispensation of justice. This Court naturally expects the Secretary of the Department to take necessary consequential action against those concerned after fixing responsibility in the matter.

Let the affidavit of the Secretary be filed of the compliance of the latter part of the order within two months when this matter shall be listed under the heading "For Orders".