

(2013) 09 JH CK 0018
In the Jharkhand High Court
Case No : WP (S) No. 5568 of 2012

Lalit Kumar Lata

APPELLANT

Vs

Bharat Coking Coal Limited and Others

RESPONDENT

Date of Decision : 03-09-2013

Acts Referred:

Citation : (2013) 4 JLJR 295

Hon'ble Judges : Aparesh Kumar Singh, J

Bench : Single Bench

Advocate : Rajesh Lala, for the Appellant; Ananda Sen, for the Respondent

Final Decision : Allowed

Judgement

Aparesh Kumar Singh, J.—Heard counsel for the parties. By the impugned order dated 27.8.2010 (Annexure-3) issued by the Technical Secretary to Executive Director (MS)/Deputy C.M.O.(HQ) the claim for medical reimbursement for treatment of wife of the petitioner has been refused on the ground that petitioner has not obtained any prior approval from the company and such type of treatment expenditure is not admissible as per the C.I.L. Medical Attendance Rules.

2. Petitioner's case is that his wife Smt. Nutan Lala while at Ranchi during the course of her stay with her son who was studying in Ranchi met with an accident while riding on motorcycle and got head injury on 13.4.2010. She was immediately rushed to Nagarmal Modi Seva Sadan, Ranchi where she remained for about two days and thereafter, she was shifted to Apollo Hospital, Ranchi where she was admitted in Intensive Care Unit. After remaining in hospital for certain time for more than a month she was released after being cured. The treatment incurred expenditure of Rs. 1,86,110/-. The petitioner, thereafter, made a claim for reimbursement before his controlling officer which was duly forwarded by the letter dated 7.9.2010 to the Director Personnel, BCCL enclosing relevant vouchers and prescriptions. However, the respondents have denied the

medical reimbursement simply on the ground that petitioner has failed to obtain prior approval of the company and such treatment expenditure was not admissible under the Medical Attendance Rules of CIL.

3. It is submitted by learned counsel for the petitioner that in case of accident which the petitioner's wife has met, there was no time left for seeking prior approval for urgent treatment which otherwise could have proved fatal to the injury. In such circumstances, the said ground made out for rejection of petitioner's claim is wholly arbitrary and suffers from non-application of mind. It is further submitted that the condition in which the petitioner's wife was rushed to the hospital for treatment after having sustained head injury during the accident do suggest that the respondents should have considered the case of the petitioner as the case of post facto sanction. Learned counsel for the petitioner submits that in similar circumstances, in case of treatment in private hospital such as Escort Heart Institute and Research Centre, New Delhi, this Court in W.P.L. No. 1422 of 2005 in case of another employee working under the same respondent BCCL have been pleased to allow the writ petition by directing reimbursement of the entire amount. The challenge to the same in L.P.A. No. 526 of 2005 as well as before the Hon'ble Supreme Court in S.L.P.(Civil) No. 9966 of 2006 has also failed. Similar orders have been relied upon by the petitioner as contained in Annexures-9, 10 and 11 respectively in W.P.S. No. 1758 of 2006, W.P.S. 1792 of 2011 and L.P.A. No. 254 of 2007 arising out of same W.P.S. 1758 of 2006. In such circumstances, petitioner has assailed the impugned order. He has submitted that the right to medical treatment of an employee in service Rules is guaranteed under the statute as also it is concomitant right under Article 21 of the Constitution of India. Learned counsel for the petitioner has relied upon the judgment rendered by the Hon'ble Supreme Court in the case of Consumer Education and Research center and others Vs. Union of India and others, wherein it has been held that right to be treated in such, emergent situation is also covered under the right to life under Article 21 under the Constitution of India.

4. Learned counsel for the respondents submitted that the Medical Attendance Rules stipulates certain conditions which are required to be complied before such case of reimbursement is allowed upon the expenditure where the employee or his dependent has been treated in private hospital, which is prerequisite. There are other formalities required to be observed such as permission to carry on continuous treatment beyond 30 days by the competent authority i.e. the Company's Doctor, which has not been done in the instant case. The respondents, however have not been able to offer satisfactory answer as to why in the cases of accident where immediate treatment is necessary in order to save the life of the injured, the matter could not have been considered as post facto sanction in the nature of approval.

5. I have heard counsel for the parties at length and gone through the relevant materials on record including the impugned order. The facts of the instant case discloses that the eventuality that had met the petitioner's wife as a result of

accident could not have waited for seeking prior approval of the competent authority before undertaking necessary emergency treatment of the injured. The life of the person was most important consideration at the relevant time.

6. In such circumstances, though the respondents appear to have relied upon the Medical Attendance Rules, which required prior approval but the Rules in such circumstances cannot be said to be inflexible in nature as not to take into account of such emergency where immediate attention is required in such cases of accident. It is otherwise the bounden duty of any hospital to take in for treatment any such persons who is facing life threatening injury as the responsibility is to save the life. In such circumstances, the order of refusal of medical reimbursement appears to suffer from non-application of mind and as otherwise observed does not stand the test of reason. In such circumstances, the impugned order cannot be sustained in law and accordingly, quashed.

7. The matter is remanded to the competent authority under the respondent-BCCL to once again consider the question of medical reimbursement of the petitioner for treatment of his wife in accordance with law also taking into account such judgments, which are relied upon by the petitioner. The concerned competent authority under the respondent-BCCL shall also grant one opportunity of personal hearing to the petitioner to produce all such necessary materials in support of his case. The aforesaid exercise shall be carried out within a period of 8 weeks. The writ petition is allowed in the aforesaid terms.