
(2000) 12 P&H CK 0001
In the Punjab And Haryana At Chandigarh
Case No : C.W.P. No. 5679 of 1997

Lt. Col. M.L. Kohli

APPELLANT

Vs

Union of India

RESPONDENT

Date of Decision : 05-12-2000

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2000) 12 P&H CK 0001

Hon'ble Judges : R.L. Anand, J

Bench : Single Bench

Advocate : Mr. Rajesh Bansal, for the Appellant; Mr. Kamal Sehgal, for the Respondent

Judgement

R.L. Anand, J.—Lt. Col. M.L. Kohli (Retd.) has filed the present petition under Article 226 of the Constitution of India for issuance of a writ of mandamus directing the respondent to reimburse to him the medical claim of Rs. 1,12,850/-, which was incurred by him towards Angiography and By-pass surgery, which was performed at the Escorts Hospital, New Delhi.

2. The case set up by the petitioner is that he joined the Army in the year 1938 and retired in the year 1973. In the year 1994. He suffered from Unstable Angina. On 15.11.1994, he was admitted to the Escorts Hospital, New Delhi. On 22.11.1994, open heart surgery was performed upon him and he was discharged from the said hospital on 2.12.1994. He wrote a letter to the Chief of the Army Staff to make the reimbursement of the bill. He submitted a bill also but he was only reimbursed to the extent of Rs. 1 lac whereas he actually incurred Rs. 2,12,850/-. In this manner, he is entitled to further medical reimbursement of Rs. 1,12,850/-.

3. Notice of the writ petition was given to the respondents, who filed the written statement and denied the allegations.

4. As per the respondents, the petitioner was a member of the Army Group

Insurance Fund, according to which the maximum reimbursement admissible to the petitioner was Rs.1 lac, which has already been paid to him. There is no rule of the Army which entitles the petitioner for further reimbursement. In these circumstances, the petitioner is not entitled to the reimbursement of the additional amount of Rs. 1,12,850/- which is being claimed by him.

5. A rejoinder was also filed by the petitioner in which he reiterated the allegations made in writ petition by denying those in the written statement.

6. I have heard the counsel for the parties and with their assistance have gone through the record of this case.

7. Admitted facts are that the petitioner retired from the army and he was a member of the Army Group Insurance Fund, according to which the maximum reimbursement permissible to its members is Rs. 1 lac. The point for determination is whether the petitioner can claim the additional amount of Rs. 1,12,850/- or not.

8. It is also proved on the record through the bills, Annexures P-3/1 and P- 7, that the Escorts authorities charged Rs. 2,12,850/-.

9. Medical reimbursement to a serving or a retired employee, to my mind, is the basic right. The medical reimbursement being made to the employees is not a charity or a bounty. It is granted under the policy and object that an employee or his dependents must be reimbursed because the employee is serving the employer, whether Govt. of India, State Government or a public sector Corporation or a Society. The Army Group Insurance Fund has been created for the benefit of the employees, who are supposed to contribute periodical subscription, which is kept intact by the employer for the benefit of its members. However, in my opinion, the employer cannot escape its liability under the general law which entitles the employees to claim reimbursement. In these circumstances, even if the petitioner is a member of the Army Group Insurance Fund, still he is entitled to medical reimbursement under the general law.

10. Now, the ancillary point for determination is whether the petitioner should be reimbursed at the rates of the Escorts Authorities or at the rates of the A.M.M.S., New Delhi or P.G.I., Chandigarh.

11. There is nothing on the record to show that the Govt. of India gave approval to the petitioner to undertake his surgery in Escorts Hospital, which is a private institution. Rather, the petitioner made a request to the authorities and on his request, he was referred to the Escorts Hospital. In these circumstances, the petitioner will be entitled to the medical reimbursement at the rates which are applicable in A.I.I.M.S., New Delhi. The bills will be examined by the Govt. of India and the petitioner will be reimbursed the amount at the rates as are applicable in A.I.I.M.S., New Delhi and if the amount of the bills exceeds Rs. 1 lac already reimbursed to the petitioner, the excess amount shall be paid to the petitioner within three months from the date of receipt of a copy of this order,

failing which the respondents shall also be liable to pay interest @ 12%.

No costs.

12. Petition allowed.