
(2016) 03 P&H CK 0354
In the Punjab And Haryana At Chandigarh
Case No : C.W.P No. 11454 of 2015

Manish Kumar Chawla

APPELLANT

Vs

State of Haryana and others

RESPONDENT

Date of Decision : 18-03-2016

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2016) 3 PLR 130

Hon'ble Judges : Ritu Bahri, J.

Bench : Single Bench

Advocate : Mr. Munish Gupta, Advocate, for the Appellant; Mr. Ravi Pratap Singh, A.A.G. Haryana, for the Respondent

Final Decision : Allowed

Judgement

Ritu Bahri, J.—Petitioner has approached this Court praying for issuance of writ in the nature of certiorari for setting aside order dated 27.01.2015 vide which medical reimbursement has been rejected.

2. The daughter of the petitioner was suffering from hearing impairment and was got examined by Department of Otorhinalaryngology and Head Neck Surgery, AIIMS New Delhi on 14.03.2014 and surgery by way of implant system was suggested but the petitioner was informed that he will have to wait for one year for the above surgery. Copy of the examination and suggestion of surgery as opined by AIIMS New Delhi on 14.03.2014 is Annexure P-1. Petitioner could not wait for so long and got her daughter examined from Medicity Hospital, Gurgaon on 26.04.2014 and the hospital suggested surgery by way of implant in both ears vide their letter dated 26.04.2014 (P-2). The said diagnosis was got conducted by Maidanta, Gurgaon and date of admission was given as 02.06.2014 and it was also informed that the said hospital is on the Government Panel, vide Annexure P-3. Thereafter, petitioner got his daughter admitted in the said hospital on 03.06.2014 and was discharged on 07.06.2014 after the entire surgery was conducted on both ears. Petitioner paid the total bill amount of

Rs.7,77,851/- (P-4). Petitioner applied for the medical reimbursement of the above mentioned amount (P-5), which was declined vide letter dated 27.01.2015 by opining that the treatment has been got conducted from a non-recognised hospital and no approval for emergency was obtained (P-6). Petitioner gave legal notice in this regard vide Annexure P-8 and the same was replied vide Annexure P-9 suggesting that the claim already stands rejected vide letter dated 27.01.2015 and no further action can be taken qua the same.

3. Learned counsel for the petitioner contends that since the daughter of the petitioner was of marriageable age, she was required surgery by way of implant and there was no alternate with the petitioner except getting the surgery done from Maidanta which was empanelled at the time of initial diagnose.

4. Learned counsel further contends that no notice was given to employees that the hospital was no longer authorised. Further with regard to emergency procedure, it has been stated that on such ground, the claim of the petitioner cannot be rejected as surgery had already been opined by AIIMS Delhi but the hospital gave the time of approximately one year.

5. Learned counsel for the respondent ,on the other hand, has referred to basic reimbursement policy dated 06.05.2005 as amended vide policy dated 05.07.2005 (R-1), in which clause 4(a) and (b) of the aforesaid policy reads as under:-

"The reimbursement for the treatment taken in emergency in an unapproved hospital will be allowed equal to PGI Chandigarh rates with the approval of the Administrative department (the verification/recommendation of the Government in Health Department also to be obtained) (b) Head of the department in consultation with concerned civil surgeon is competent to certify an emergency."

6. Learned counsel has further submitted that the respondent got certified from CMO, Rewari, who vide letter dated 13.01.2015 (R-2) certified that the treatment taken by the daughter of the petitioner was not taken in emergency.

7. Further learned counsel for the respondent contends that Medanta Medicity Hospital was not approved list of Haryana Government at the time of treatment of petitioner's daughter i.e 02.06.2014 to 07.06.2014 (R-3).

8. Thus, the basic stand of the respondents is that the Medanta Medicity Hospital was not approved by the Government during the treatment of the daughter of the petitioner and secondly, the treatment was not taken in emergency.

9. Heard learned counsel for the parties.

10. The moot point for consideration before this Court is that once the Medanta Medicity Hospital was not approved by the Government of Haryana and the treatment was not taken in emergent situation, the petitioner is entitled to full amount of medical reimbursement spent by him on her daughter.

11. The daughter of the petitioner was got examined by Department of

Otorhinalaryngology and Head Neck Surgery, AIIMS New Delhi on 14.03.2014 and surgery by way of implant system was suggested but the petitioner was informed that he will have to wait for one year for the above surgery, vide opinion of doctors (Annexure P-1).

12. Thus, the petitioner had no other option rather than get her daughter operated from other hospital as AIIMS hospital informed the petitioner that he will have to wait for one year for the above surgery and in that situation, he had gone to Medanta Medicity Hospital, conducted the diagnosis and date of admission was given as 02.06.2014 and it was further informed that the said hospital is on the Government Panel, vide Annexure P-3. However, vide Haryana Government instructions dated 20.11.2013 Annexure R-3, it has been stated that Medanta Hospital was empanelled for six months i.e 02.11.2013 to 02.05.2014. Thus for all intents and purposes, Medanta Hospital was approved when the petitioner took her daughter to Medanta Hospital, who conducted her diagnosis on 26.04.2014. The plea of the respondents that this hospital was not on the empanelled list is thus rejected as even the Employees Association had written to Government for continuing the recognition of said hospital, vide letter dated 20.08.2014, which was rejected on 18.03.2015.

13. Keeping in view the fact that surgery had been recommended by the doctors of AIIMS, vide Annexure P-1 but the petitioner was informed by the doctors that he will have to wait for one year for the above surgery, the petitioner had every right to go to other hospital, which was on the list of Haryana Government when the petitioner took her daughter to Medanta Hospital on 26.04.2014. The claim of the petitioner thus could not be rejected by the respondents on the ground that this hospital was not on approved list of Haryana Government at the time of treatment and further it was not an emergent situation. It is not the case of the respondents that this surgery was available in CMO, Rewari. Hence, for all intents and purposes, the surgery has been conducted in an emergent situation, as per policy Annexure R-1.

14. For the reasons mentioned above, the writ petition is allowed. A direction is given to respondents to reimburse the medical expenses incurred by the petitioner on account of treatment undertaken by his daughter, as per policy (R-1) treating it to be a case of emergent situation.