
(2001) 03 P&H CK 0118
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 3960 of 2000

Mast Ram

APPELLANT

Vs

State of Punjab

RESPONDENT

Date of Decision : 06-03-2001

Acts Referred:

Constitution of India, 1950 — Article 14, 16, 21, 226, 227

Citation : (2001) 03 P&H CK 0118

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

Bench : Single Bench

Advocate : Mr. R.C. Chatrath, for the Appellant; Ms. Gurveen H. Singh, DAG, for the Respondent

Judgement

R.L. Anand, J.—The short point in this writ petition is whether the work charged employee, if he suffers with heart problem and gets medical treatment while not on duty, is entitled to medical reimbursement.

2. Some facts can be noticed in the following manner. The petitioner Shri Mast Ram, has filed the present writ petition under Articles 226/227 of the Constitution of India against the State of Punjab and others and he sought the direction of this Court in the nature of mandamus by making a prayer that direction be issued to the respondents to reimburse him the medical expenses to the tune of Rs. 1,02,819.50, which amount was spent by him on his heart surgery during the period 23.2.1999 to 8.3.1999 in the P.G.I. Chandigarh.

3. It is the common case of the parties that petitioner was working as a work charged employee with the State of Punjab and he suffered a heart problem as a result of which heart surgery was done in P.G.I. on 23.2.1999. The petitioner remained admitted in the PGI up to 8.3.1999 and during the course of medical treatment he incurred a huge amount of Rs. 1,02,819.50.

4. The petitioner made a prayer to the respondent-authorities for his medical reimbursement but it has been declined on the ground that since he is work

charged employee and that he suffered the problem while not on duty, therefore, he was not entitled to the medical reimbursement.

5. Notice of the writ petition was given to the respondents. Written statement has been filed in which the claim of the petitioner has been disputed primarily on the ground that since the petitioner was working as a work charged employee and that he suffered the problem while not on duty, therefore, he was not entitled to the medical reimbursement. Also it is the stand of the respondent-authorities that as per the certified standing order, the petitioner is not entitled to the medical reimbursement.

6. I have heard Shri R.C. Chatrath, Advocate, appearing on behalf of the petitioner and Ms. Gurveen H. Singh, learned DAG, appearing on behalf of the respondents and with their assistance have gone through the record of the case.

7. Learned counsel appearing on behalf of the petitioner submits that though the petitioner was a work charged employee, still, he was being benefited in the matter of emoluments from the funds of the State Government, therefore, he is an employee of the State Government and as such he is entitled to the benefit of the medical reimbursement and his claim for medical reimbursement was declined on artificial ground that petitioner was not a regular employee.

8. On the contrary, learned counsel appearing on behalf of the respondents, submitted that the benefit of medical reimbursement has been made available only to the regular employees. Moreover, the petitioner, while suffered the heart problem, was not on active duty and in these circumstances he is not entitled to the medical reimbursement. Also it was argued on behalf of the learned counsel for the respondents that as per certified standing order, the petitioner is not entitled to the benefit of medical reimbursement.

9. I have considered the rival contentions of the parties and am of the opinion that the submission raised by the learned counsel for the respondents cannot be accepted. This a country where the hands are more and the jobs are less. Sometime, candidates are recruited on regular posts, ad hoc posts and as work-charged employee and sometimes in the leave arrangement. The criteria should be whether a person is being funded from the exchequer of the State for the purpose of medical reimbursement. Any public servant can suffer a problem with his body while off the duty or on the duty. Moment the Government recognises that a public servant is entitled to the medical reimbursement, then there cannot be an artificial distinction that such an employee is a work-charged employee or that he is working on ad-hoc basis or that he has no right to a particular post. We are living in a welfare society. In these circumstances, the Government should always see the welfare of his employees. The disease does not make a distinction while coming into the body whether it is entering or penetrating in the body of a regular employee or an ad hoc employee or a work-charged employee. Once the Government is taking the benefit of public servant, in the performance of his duties, the Government is supposed to reimburse the medical expenses of

such public servant also. The distinction that a work-charged employee will be medically reimbursed if he suffers the problem on duty, has no nexus. Such distinction is irrational and has to be struck down. I have just stated above that in a welfare society the Government is supposed to see the welfare of its employees. The moment it is established that the employee has suffered the medical problem while he is in service, the Government is bound to reimburse such employee the medical expenses.

10. It has been held in 1998(1) SCT 716 State of Punjab v. Ram Lubhaya Bagga, that no right can be absolute in a Welfare State and that every individual right has to give way to the right of public at large. If the rules framed by the Government are irrational, such rules cannot stand to the test of judicial scrutiny. The condition imposed by the Government that only the work-charged employee will be benefited of medical reimbursement, who suffers the medical problem while on duty, is bad in the eye of law.

11. In these circumstances, I allow this writ petition and give direction to the respondent-authorities to release the benefits of medical reimbursement of the petitioner as per the AIIMS New Delhi or PGI, Chandigarh rates, within three months from the receipt of the copy of the order, failing which the respondents shall pay 12 per cent interest. No order as to costs. Copy of the order Dasti to both the parties for compliance.

12. Writ petition allowed.