
(2000) 12 DEL CK 0103

In the Delhi High Court

Case No : Civil Writ Petition No. 5317 of 1999

M.G. Mahindru

APPELLANT

Vs

Union of India (UOI) and Another

RESPONDENT

Date of Decision : 18-12-2000

Acts Referred:

Constitution of India, 1950 — Article 226, 227

Citation : (2001) 59 DRJ 564 : (2001) 91 FLR 545

Hon'ble Judges : V.K. Jain, J

Bench : Single Bench

Advocate : S. Janani, for the Appellant; U. Hazarika, for the Respondent

Final Decision : Allowed

Judgement

Vijender Jain, J.—Rule.

Petitioner retired as a Central Government officer and under the. policy of the Government was entitled to reimbursement by the Government regarding his illness. It is the case of the petitioner that in the year 1996, the petitioner was referred by consultant in RML Hospital to the Escorts Heart Institute & Research Centre for coronary angiography. On 1.10.1996 the petitioner was accorded permission for heart surgery vide letter dated 1.10.1996. The total cost of surgery incurred by the petitioner was Rs. 2,08,270/-. The respondents have reimbursed only Rs. 1,27,650. The balance of the amount of Rs. 80,620/- has not been paid to the petitioner.

2. Aggrieved by non-reimbursement of the expenses incurred by the petitioner, the petitioner has filed the present writ petition. It is the case of the petitioner that the petitioner has raised all the amounts through loans from friends and relatives for his operation. At page 10 of the paper-book is the letter from Dr. Ram Manohar Lohia Hospital with the recommendation that, the petitioner was suffering from CAD with MI. He requires urgent Angiography CART/CABG. It was further recommended in the letter that necessary sanction be accorded by the

CGHS and he should be referred to Escort Heart Institute & Research Centre which was approved by the CGHS for the said purpose. On 1.10.19% the office of the Additional Director, CGHS granted permission for taking treatment to the Escort Heart Institute with the direction that all the bills will be paid directly to the Hospital by the department amounting to Rs. 13,800/- and Rs. 1,13,850/-, i.e. Rs. 1,27,650/-.

3. It was contended by Ms. Janani, learned counsel for the petitioner that when the actual expenditure was to the extent of Rs. 2,08,270/-, the petitioner was entitled for the deficit amount of Rs. 80,620/-. In support of her contention, she has cited Narendra Pal Singh Vs. Union of India and Others, as well as State of Punjab and others Vs. Mohinder Singh Chawala, etc., . It was observed by Supreme Court in State of Punjab's case (supra) as under:-

"It is contended for the appellants-State that the Government have taken decision, as a policy in the Resolution dated January 25, 1991 made in Letter No.7/7/85/5HBV/2.498, that the reimbursement of expenses on account of diet, stay of attendant and stay of patient in hotel/hospital will not be allowed. Permission given was subject to the above resolution and, Therefore, the High Court was not right in directing the Government to bear the expenses for the stay in the hotel/hospital contrary to para (vii) of the Resolution of the Government. We find no force in the contention. It is an admitted position that when specialised treatment was not available in the Hospitals maintained by the State of Punjab. Permission and approval having been given by the Medical Board to the respondent to have the treatment in the approved hospitals and having referred him to the AIIMS for specialised treatment where he was admitted, necessarily, the expenses incurred towards room rent for stay in the hospital as an inpatient are an integral part of the expenses incurred for the said treatment. Take, for instance, a case where an inpatient facility is not available in a specialised hospital and the patient has to stay in a hotel while undergoing the treatment, during the required period, as certified by the doctor, necessarily, the expenses incurred would be integral part of the expenditure incurred towards treatment. It is now settled law that right to health is an integral to right of life. Government has constitutional obligation to provide the health facilities. If the Government servant has suffered as ailment which requires treatment at a specialised approved hospital and on reference whereat the Government servant had undergone such treatment therein, it is but the duty of the State to bear the expenditure incurred by the Government servant. Expenditure, thus, incurred requires to be reimbursed by the State to the employee. The High Court was, Therefore, right in giving direction to reimburse the expenses incurred towards room rent by the respondent during his stay in the hospital as an inpatient."

4. On the other hand, Mr. Hazarika, learned counsel for the respondent has contended that in a subsequent judgment in State of Punjab and Others Vs. Ram Lubhaya Bagga Etc. Etc., , the Supreme Court has upheld the policy of reimbursement.

5. I have given careful consideration to the arguments advanced by learned counsel for both the parties. There cannot be any dispute with regard to the ratio laid down by the Supreme Court in *State of Punjab v. Ram Lubhaya Bagga*'s case (supra). In that case the petitioner challenged the policy of the Government with regard to fixation of allowances. In that case no recommendation was made by the CGHS for getting the treatment from a private hospital. As far as the case in hand is concerned, it is the Government hospital, namely RML Hospital which, has recommended the case of the petitioner for a specialised treatment by a speciality hospital, which is on the approved list of CGHS. When the respondents themselves have recommended the case of the petitioner for getting treatment at a speciality hospital, to deny the benefit of giving full reimbursement would be contrary to the grant of medical facilities to a retired Government servant, if he cannot actually avail of the same. If the Government hospital did not have the facility for giving treatment like the one which was required to be given to the petitioner, then it was an obligation on the part of the respondents to have reimbursed the total amount paid to the said hospital. Following the ratio laid down in the *State of Punjab and Ors. v. Mohinder Singh Chawla*'s case (supra) I direct the respondents to reimburse the amount of Rs. 80,620/- to the petitioner within a period of four weeks.

6. Petition is allowed. Rule is made absolute.