

(1996) 04 P&H CK 0114
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 15942 of 1995

Mohinder Singh Chawla

APPELLANT

Vs

The State of Punjab and Others

RESPONDENT

Date of Decision : 08-04-1996

Acts Referred:

Constitution of India, 1950 — Article 14

Citation : (1997) 1 ILR (P&H) 62 : (1996) 113 PLR 499

Hon'ble Judges : M.S. Liberhan, J;J.C. Verma, J

Bench : Division Bench

Advocate : P.S. Thiara, for the Appellant; G.S. Cheema, DAG, for the Respondent

Final Decision : Allowed

Judgement

M.S. Liberhan and J.C. Verma, JJ.—Medical reimbursement for the treatment of heart problem was made to the petitioner yet the respondents declined to reimburse him for a sum of Rs. 15,0005/- which was paid by him as room rent charged by All India Institute of Medical Sciences, New Delhi for his stay there during and for the post operative care, inter alia on the ground that the policy decision does not permit so. The relevant clause- referred to in the policy decision Annexure R.I runs as under :-

"The reimbursement on account of diet, stay of attendant and stay of patient in hotel/hospital will not be allowed.

2. The validity of the aforesaid clause has been challenged by learned counsel for the petitioner during the course of arguments.

3. We fail to comprehend the reasonable nexus of the clause regarding nonreimbursement on account of diet, stay of attendant, and stay of patient in the hotel/hospital with the object of reimbursement of medical expenditure incurred by the employees of the respondent-State. It is unimaginable that post operation attendance or care as is given or was given or required to be given in the hospital premises could be provided anywhere else or can be severed from

the treatment or medical assistance in its totality. The post operation treatment or attendance is a part of continual act in the process of treatment of a patient. Usually and ordinarily the post operation attendance is as important as pre-operation or during the operation attendance. By reading the policy decision referred to above and the stand taken by the respondent-State is like reading the words of policy like wooden blocks or stones having no meaning, no life, no object which they want to achieve and no literal meaning can be given to the words used in the policy decision. They have to be read in totality keeping in view the object it intends to serve as well as keeping in view the beneficiary object of the welfare State qua their employees. There can be no gainsaying that reimbursement of medical expenses must include the total expenditure incurred by the petitioner for his treatment.

4. It is beyond our comprehension how the amount charged by A.I.I.M.S. New Delhi, which itself is nothing else but a part or wing of the Government body from the patient as room rent where he is to be treated after the operation could be divested of its nature as medical expenditure incurred for the operation. In our opinion, there is no reasonable ground on which it could be refused. One has not to stay in a hospital out of pleasure or for enjoyment. In ground realities it is one hand of Government giving to another. No plausible reasons have been pointed out to decline the reimbursement of the amount spent by the petitioner towards room tent charged by A.I.I.M.S. New Delhi. The interpretation proposed to be put on the clause of the policy is bereft of any plausible reason devoid of ground realities and infact totally negating the very object of medical reimbursement provided to the Govt. employees. The clause declining the reimbursement on account of diet, stay of attendant to attend the patient and stay of the patient in hotel/hospital or any other place is itself an arbitrary clause violative of Article 14 of the Constitution of India. In any circumstances, this clause cannot be sustained on the annals of reasonability or on the test of having any nexus with the object of the policy for reimbursement of the medical expenditure incurred by the employees. It would be reasonable to infer that this clause runs contrary to the object of the State to provide medical assistance to its employees. Thus, this clause is demonstrably contrary to Article 14 of the Constitution of India apart from being unconscionable, particularly when it is sweeping to be invoked that in every eventuality, one cannot be reimbursed for the room rent, diet or for attendance inspite of the fact when human experience shows that in case of numerable diseases, presence of attendant providing of particular or special diet under supervision of doctors in and around the hospital is a part of treatment.

5. In our considered view clause (vii) referred to above in Annexure R-1 cannot be sustained and is liable to be struck down as ultra vires and unconscionable.

6. Each case for medical reimbursement with respect to diet, stay of patient, stay of attendant employed either in a hospital or anywhere else during the period of treatment should be considered on its own merits keeping in view the facts and

circumstances of a particular case.

7. In view of the observations made above, the writ petition is allowed. The respondents are directed to pay Rs. 15,0005/- to the petitioner which he has spent qua room rent while getting post operative treatment in the All India Institute of Medical Sciences, New Delhi. The petitioner was operated in June, 1994, while the payment has been made to him in 1996. There is no plausible reason for denial of payment of the amount spent by the petitioner for his treatment for such a long time. The State instead of giving a benevolent helping hand as is expected from a welfare State as ideal employer, has treated its employee with an ice cold heart and in a totally inhuman approach. It cannot be denied that there are large number of cases of which we can take judicial notice, the respondent-State of Punjab has reimbursed its employees, Officers, V.I.P's. and Legislatures for their stay, room rent, the expenditure incurred on diet and attendants etc.

8. Keeping in view the totality of the circumstances, the respondent are directed to pay interest at the rate of 18% per annum on the amount from the date it is due till payment. The amount be paid to the petitioners within three months from today. Our above view finds support from a decision of this Court in *Sadhu R. Pall v. State of Punjab* 1994 (1) RSJ 335.