
(2015) 05 RAJ CK 0011

In the Rajasthan High Court

Case No : Civil Writ Petition No. 3429 of 2015

Niranjan Raj Mehta

APPELLANT

Vs

The State of Rajasthan and Others

RESPONDENT

Date of Decision : 28-05-2015

Acts Referred:

Citation : (2015) 05 RAJ CK 0011

Hon'ble Judges : Sandeep Mehta, J

Bench : Single Bench

Advocate : Kuldeep Mathur, for the Appellant; N.S. Rajpurohit, AGC, Advocates for the Respondent

Judgement

Sandeep Mehta, J.—By way of the instant writ petition, the petitioner seeks a direction to be issued to the respondents to reimburse the medical expenses borne by him in the treatment of his wife, which she had to undergo in an emergent condition at the Shalby Hospital, Ahmedabad in April 2013.

2. The petitioner is a retired Blaster from the Ground Water Department of the State of Rajasthan. He retired from service on 31.10.2008 and was issued with a PPO and also a medical diary by the respondents. He is a permanent resident of District Jodhpur.

3. It is averred in the writ petition that the petitioner alongwith his wife had gone to Ahmedabad to attend marriage of a close relative in the month of April 2013 where his wife complained about serious and intolerable pain in her right knee and was not even capable of standing. She was admitted in an emergent condition at the Shalby Hospital, Ahmedabad. She remained admitted at the said hospital where she was operated for knee replacement, wherein a total expenditure of Rs. 1,88,093/- was incurred. The petitioner submitted the bills of medical expenses to the respondent department and claimed reimbursement thereof but the claim was not accepted by the respondents. Hence, the petitioner has approached this Court for issuance of a writ or order to the respondents to

reimburse the medical bills of the petitioner.

4. Learned counsel for the petitioner submits that the petitioner alongwith his wife had gone to Ahmedabad to attend marriage of close relative and there, his wife suddenly suffered pain in right leg knee and had to undergo treatment in an emergent condition and as such, it was absolutely impossible for him to have approached a government hospital in the State of Rajasthan or a recognized hospital for the treatment of his wife's sudden ailment. He further submits that procuring a reference from a Medical Board or the Principal of the Medical College was not possible looking to the emergent situation. He relies upon the decision of this Court in the case of *Jawahar Lal Bohra v. State of Rajasthan* (S.B. Civil Writ petition No. 6350/2005) decided on 26.3.2014 and prays that the writ petition deserves to be accepted and the respondents be directed to reimburse the medical expenses incurred in the treatment of the petitioner's wife in accordance with Rajasthan State Pensioners Medical Concession Scheme.

5. Learned counsel for the respondents has vehemently opposed the submissions advanced by the learned counsel for the petitioner. However, he candidly conceded that in similar matters, this Court has directed reimbursement of the medical expenses borne by the retired employees at the rate which is applicable for similar treatment in Recognised/Government hospitals.

6. The controversy regarding the entitlement of the retired government employees to receive medical reimbursement has already been settled by this Court in a catena of decisions including the judgments rendered in the case of *Gyanendra Kumar Pareek Vs. State of Rajasthan and Others*, (2009) 4 RLW 3134 and in the case of *Anil Kumar Surolia Vs. State of Rajasthan and Others*, (2005) 3 RLW 2169 : (2005) 3 WLC 14 .

7. It is not in dispute that the petitioner, a retired government employee, had gone to Ahmedabad alongwith his wife to attend marriage of a close relative, where his wife suddenly suffered knee pain. She was admitted in an emergent situation in the Shalby Hospital, Ahmedabad and remained hospitalized as stated above. Definitely and without any doubt, it was on account of an emergent condition that the petitioner's wife had to be subjected to treatment at a hospital outside the State of Rajasthan. Procuring a reference from a Medical Board or the Principal of the Medical College was also impossible looking to the emergent condition in which the treatment had to be undertaken.

8. This Court considered the issue of emergent situation in the case of *Gyanendra Kumar Pareek v. State of Rajasthan and Ors.* (supra) and held that when a family member suffers from cardiac ailment, the prime objective of the other family member would be to save his/her life. At that time, services of whichever hospital is suited could be utilized because emergency knows no law and no procedure and when human life is at stake, in such situation, ultimate responsibility of the State cannot be washed off. This Court relied upon the decision of the Division Bench of this Court in *Anil Kumar Surolia v. State of*

Rajasthan (supra) wherein the Division Bench observed as under:--

"Government cannot insist upon an employee to get himself treated at recognized government institution. All that the Government in these circumstances can do is to reimburse the concerned employee at the rates that may be applicable in the recognized government institution. Reference in this connection may be made to the judgment of the Hon''ble Supreme Court in Surjit Singh Vs. State of Punjab and Others, (1996) 1 AD 1003 : AIR 1996 SC 1388 : (1996) 2 JT 28 : (1996) 1 SCALE 648 : (1996) 2 SCC 336 : (1996) 1 SCR 1095 : (1996) 1 UJ 523 and State of Punjab and Ors. v. Mohan Lal Jindal reported in (2001) 9 SCC-217. Consequently, the reimbursement of the medical expenses borne by the State Government employees and pensioners has to be done even if the treatment is undertaken at unrecognized hospital outside the State even though reference may not have been taken prior to treatment."

9. Thus, as per scheme of medical concession applicable to the retired employees, the only hurdle against the petitioner for reimbursement of the medical bills of his wife's treatment is that she was subjected to treatment at an unrecognized hospital outside the State and that too without a reference being made. However, as has been noted above, the Division Bench of this Court has already laid the issue to rest by observing that even if the treatment is taken at an unrecognized hospital and without any reference, the reimbursement thereof has to be done at the rates prescribed in the Concession Scheme.

10. As a consequence, the action of the respondents in not reimbursing the medical bills of the petitioner cannot be approved as being unjust and arbitrary.

11. Consequently, the petitioner is entitled to be reimbursed with medical expenses borne by him in his wife's treatment at the Shalby Hospital, Ahmedabad in accordance with the Rajasthan State Pensioners Medical Concession Scheme.

12. Accordingly, while accepting the writ petition, it is hereby directed that the respondents shall forthwith reimburse the amount of medical expenses borne by the petitioner in his wife's treatment at the Shalby Hospital, Ahmedabad in accordance with the Rajasthan State Pensioners Medical Concession Scheme. The reimbursement shall be made within a period of eight weeks from the date of receipt of copy of this order. If the payment is delayed beyond the period of eight weeks, the due amount shall carry interest @ 12% per annum.

13. No order as to cost.