

(2025) 09 P&H CK 0918

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 2665 Of 2025 (O&M)

Niwas

APPELLANT

Vs

Uttar Haryana Bijli Vitran Nigam Limited And Another

RESPONDENT

Date of Decision : 22-09-2025

Acts Referred:

Constitution Of India, 1950 — Article 21, 226, 227

Citation : (2025) 09 P&H CK 0918

Hon'ble Judges : Harpreet Singh Brar, J

Bench : Single Bench

Advocate : Rajiv Kumar Saini, Prince Singh

Final Decision : Dismissed

Judgement

Harpreet Singh Brar, J

1. Prayer in this writ petition filed under Articles 226/227 of the Constitution of India, is for issuance of a writ in the nature of mandamus, directing the respondents to decide the legal notice dated 11.12.2024 (Annexure P-8) and to pay total medical reimbursement of bills, which has been partly granted vide order No.360/UH/M-9270 dated 15.10.2024 (Annexure P-7). Further a writ of certiorari has been sought, for quashing the impugned order dated 15.10.2024 (Annexure P-7) vide which the respondents had not approved total medical bills.

2. Learned counsel for the petitioner, inter alia, contends that the petitioner is a retired employee of respondent/Nigam. The petitioner on 03.06.2024 at 03:01 AM, suffered severe pain and he was admitted in Holy Heart Super-Specialty & Trauma Centre, Rohtak. Thereafter, he was referred to Sir Ganga Ram City Hospital, New Delhi on 05.06.2024, due to his critical condition as discernible from the copy of referral summary (Annexure P-1). The petitioner was operated upon for Acute Intestinal Obstruction and the concerned Doctor, who operated the petitioner issued an Emergency Certificate and discharge summary as discernible from Annexures P-2 and P-3, respectively. Thereafter, the petitioner

submitted the medical bills and relevant records on the prescribed format along with essentiality certificate in the office of respondent No.2. The claim of the petitioner was partly rejected as out of Rs.3,93,985/-, only an amount of Rs.1,05,415/- was cleared whereas the amount of Rs.2,88,570/- has not been paid without any justifiable reason. Learned counsel for the petitioner further submits that the claim of the petitioner is denied in spite of the fact that the concerned Doctor had considered his health as medical emergency and the petitioner has undergone surgery on 06.06.2024 and as such, any denial to the medical reimbursement would be violative of Article 21 of the Constitution of India.

3. Per contra, learned counsel for the respondents has filed short reply on behalf of respondents No.1 and 2, which is taken on record. He submits that the petitioner has failed to demonstrate that he has got his treatment from a hospital, which is not on the panel of the respondents, in an emergency situation and the medical procedure was conducted only to preserve the life of the petitioner. He refers to the emergency certificate (Annexure P-2), and submits that the details of the petitioner have been filled in a typed format with hand by the doctor and admittedly, the petitioner suffered abdominal pain on 03.06.2024 whereas the procedure was performed on 06.06.2024. Merely by issuance of an emergency certificate would not entitle the petitioner for medical reimbursement. The case of the petitioner has been examined strictly in terms of the applicable policy and instructions and he is not entitled to claim any reimbursement by deviating from the said policy or instructions.

4. I have heard learned counsel for the parties and perused the record with their able assistance.

5. A perusal of the record indicates that the petitioner, a retired employee, sought full reimbursement of medical expenses incurred at a non-empanelled hospital, asserting that the treatment was necessitated by a medical emergency. However, the material on record, including the emergency certificate (Annexure P-2), fails to conclusively establish that the treatment was taken in a life-threatening emergency situation that warranted deviation from the approved panel of hospitals. The gastroenterologist opinion was taken by the petitioner on 03.06.2024 and followed as advised. NG tube was inserted and connected to negative drain. The ultrasound of the petitioner was also conducted on 03.06.2024, which reveals that the petitioner is having enlarged prostrate with volume 38 cc with median lobe bulge. Further the Contrast-Enhanced CT scan with Angiography was also conducted upon the petitioner, on 03.06.2024, which reads as follows:-

Fluid filled dilated small gut loops noted with air fluid levels with collapsed terminal ileum and large bowel. No e/o any pneumatosis noted. No e/o any free air noted. No e/o obstructed hernia noted. No h/o previous surgery. SMA and its branches appear normal. No e/o mesenteric venous thrombosis noted. Bowel wall enhancement is normal. Mild to moderate free fluid noted F/S/O Small bowl

obstruction P/O stricture in distal small bowel cannot be ruled out.

6. The reimbursement claim of the petitioner has been duly considered and partially allowed strictly in terms of the applicable policy.

7. The claim for medical reimbursement ought not to be dismissed merely because the claimant underwent treatment in a non-empanelled. In such cases, the test of essentiality and emergency comes into play, which dictates that if the medical procedure was undergone by the claimant in an emergency, on the advice of a doctor based on his medical record, in order to save his life, the reimbursement for the same must be made. Not only is the preservation of human life instinctive, but it also forms a part of Article 21 of the Constitution of India, and therefore, it shall always retain the highest priority.

8. Moreover, the State bears an obligation to ensure the availability of timely medical care to those in need. As such, it cannot expect the citizens to refrain from availing timely care, merely for the reason of non-empanelment of the hospital. Such conduct on the part of the State does not satisfy the criteria of fairness and reasonableness and therefore, amounts to a violation of the fundamental rights enshrined in Article 21 of the Constitution of India. Reliance in this regard can be placed on the judgments rendered by a two Judge bench of the Hon'ble Supreme Court in *Surjit Singh vs. State of Punjab and others* (1996) 2 SCC 336, whereby, speaking through Justice M.M. Punchhi, the following was opined:

"8. The policy, providing recognition for treatment of open heart surgery in the Escorts, specifically came to be examined by a Division Bench of the Punjab and Haryana High Court at Chandigarh in C.W.P. No. 13493 of 1992 titled as *Sadhu R. Pall v. State of Punjab through Secretary, Health and Family Welfare Punjab, Civil Secretariat, Chandigarh and others*, 1994(1) SCT 552 (P&H). decided on 6.10.1993, wherein the claim of the then writ petitioner to medical reimbursement was accepted when in order to save his life he had got himself operated upon in the Escorts, and the plea of the State that he could be paid rates as prevalent in the AIIMS was rejected. Special Leave Petition No. 22024 of 1995 against the said decision was dismissed by this Court on 2.2.1994. The other judgments of the High Court following the decision in *Sadhu R. Pall's* case are :

(1) C.W.P. No. 18562 of 1992 decided on 10.5.95 titled *K.L. Kohli v. State of Punjab and others*, 1995(4) SCT 280 (P&H);

(2) C.W.P. No. 260 of 1995, decided on 30.5.1995 titled *Ravi Mohan Duggal v. State of Punjab and others* (DB)

(3) C.W.P. No. 5669 of 1994 decided on 4.9.94 titled *Prem Singh Gill v. State of Punjab and others*;

(4) 1995(4) SCT 816 (P&H) : 1995 (III) Punjab Law Report 529 titled *Tarlok Chander v. State of Punjab etc.* (SB); and

(5) 1996(2) SCT 148 (P&H) : 1995 (III), Punjab Law Reporter 682 titled Mrs. Surya Pandit v. State of Punjab and others (SB)

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10. It is otherwise important to bear in mind that self preservation of one's life is the necessary concomitant of the right to life enshrined in Article 21 of the Constitution of India , fundamental in nature, sacred, precious and inviolable. The importance and validity of the duty and right to self-preservation has a species in the right of self defence in criminal law...

11. The appellant therefore had the right to take steps in self preservation. He did not have to stand in queue before the Medical Board, the manning and assembling of which, bare-facedly, makes its meetings difficult to happen. The appellant also did not have to stand in queue in the Government hospital of AIIMS and could go elsewhere to an alternate hospital as per policy. When the State itself has brought the Escorts on the recognised list, it is futile for it to contend that the appellant could in no event have gone to the Escorts and his claim cannot on that basis be allowed, on suppositions. We think to the contrary..."

9. In the matter at hand, the petitioner underwent surgery for Acute Intestinal Obstruction, which was not necessary at that moment in order to save his life, as also depicted by his medical record. Therefore, the test of essentiality and emergency does not stand satisfied.

10. Accordingly, the present petition is dismissed.