

(2013) 08 MAD CK 0004

In the Madras High Court

Case No : Writ Petition No. 22659 of 2013 and M.P. No. 1 of 2013

P. Venkatachalam

APPELLANT

Vs

The State of Tamil Nadu

RESPONDENT

Date of Decision : 16-08-2013

Acts Referred:

Constitution of India, 1950 — Article 21

Citation : (2013) 08 MAD CK 0004

Hon'ble Judges : D. Hariparanthaman, J

Bench : Single Bench

Advocate : L. Chandrakumar, for the Appellant; Hidayathullah Khan, Government Advocate (Forest) for RR 1, 2 and 4 and Mr. V. Jayaprakash Narayanan, Special Government Pleader for Respondent 3, for the Respondent

Final Decision : Disposed Off

Judgement

D. Hariparanthaman, J.—With the consent of both parties, the Writ Petition is taken up for final disposal. The petitioner was a Forest Guard

at the relevant point of time. His minor daughter, V. Sasikala, aged 10 years, underwent specialized surgery, i.e., Open Heart Surgery (Correction

of Congenital Complex) at Sri Ramakrishna Hospital, Coimbatore, on 27.09.1999. The petitioner is covered by the Tamil Nadu Government

Employees Health Fund Scheme. He incurred a sum of Rs. 78,822.51 as expenses for the said heart operation. However, the fourth respondent

stated that the petitioner paid a sum of Rs. 60,000/- and he has not produced bills for Rs. 18,822.51. The fourth respondent issued the

proceedings in No. 1889/03 E2, dated 18.08.2003 sanctioning Rs. 59,117/- subject to eligibility of the petitioner. However, the amount was not

reimbursed by the Treasury Department.

2. However, the Treasury Department addressed a communication in O.M. No. 14633/2003/H2 dated 28.11.2003 to the fourth respondent

stating that the approval should be obtained from the Government for the reimbursement of the said amount. It is stated therein that the operation

done on the daughter of the petitioner was not covered by G.O.Ms. No. 400, Finance (Salaries) Department, dated 29.08.2000. Thereafter, the

fourth respondent sent the proceedings in No. E2.1889/2003, dated.2.2004 to the third respondent seeking to authorize the amount of Rs.

59,117/-, as the omissions pointed out by the third respondent were rectified. The fourth respondent also sent a letter dated 27.07.2004 to the

third respondent stating that Sri Ramakrishna Hospital, Coimbatore, issued a letter stating that the ASD Closure operation done by that hospital on

27.09.1999 on the daughter of the petitioner is the same as item No. 33 mentioned in G.O.400, Finance, dated 29.8.2000. It is also stated by the

fourth respondent that the original letter of the hospital was sent along with the communication dated 18.08.2003 and another copy was enclosed

and the third respondent was requested by the fourth respondent to authorize the aforesaid amount.

3. Thereafter the fourth respondent sent another letter dated 18.08.2007 to the second respondent/the Chief Conservator of Forests, stating that

the petitioner had claimed that he had incurred Rs. 78,822.51 towards the medical expenses for the heart operation done on his daughter and he

had paid a sum of Rs. 60,000/- and the petitioner had not enclosed medical bills for Rs. 18,822.51. It is further stated that from and out of Rs.

60,000/-, he is entitled to get 75% of the amount, i.e., Rs. 45,000/- as per G.O.Ms. No. 400, dated 29.08.2000. However, the amount is not

paid so far. The fourth respondent requested the second respondent to get an order from the Government, the first respondent herein, for

reimbursement of Rs. 45,000/- to the petitioner. Thereafter, the fourth respondent sent many letters to the second respondent to get an appropriate

order from the Government. But the amount was not reimbursed. Hence, the petitioner has filed this writ petition seeking direction to the

respondents to reimburse the medical expenses to the tune Rs. 45,000/- with interest from the date of treatment till the date of reimbursement.

4. Heard both sides.

5. The learned counsel for the petitioner submitted that the respondents cannot deny the reimbursement of the medical expenses on technical

ground that the surgery was performed on 27.09.1999 while G.O.Ms. No. 400 was issued subsequently on 29.08.2000. Since the petitioner was

already covered under the Tamil Nadu Employees Health Fund Scheme, there is no reason for the respondents to deny the medical

reimbursement. The denial of medical reimbursement, according to him, is in violation of Article 21 of the Constitution of India.

6. Mr. Hidayathullah Khan, learned Government Advocate (Forests) submitted that the operation was done on the daughter of the petitioner on

27.09.1999 while G.O.Ms. No. 400, Finance (Salaries) Department, was issued subsequently on 29.08.2000. The surgery, which was performed

on the daughter of the petitioner, was covered under the G.O.Ms. No. 400. Since the operation was performed earlier, an order should be

obtained from the Government in this regard and without getting appropriate orders, reimbursement cannot be given. Therefore, without

appropriate order being issued by the first respondent, the petitioner cannot ask for reimbursement. It is also submitted that no order was issued by

the Government approving and authorizing reimbursement.

7. I have considered the submissions of both sides.

8. The petitioner is covered by the Tamil Nadu Government Employees Health Fund Scheme. The purpose of the scheme is to provide relief to the

Government servant and his family members whenever they have to undergo specialized surgery for ailments. The respondents have not disputed

that the open heart surgery was performed on the daughter of the petitioner on 27.09.1999, but stated that the same was done before the issuance

of the G.O.Ms. No. 400, dated 29.08.2000 and as such, special order shall be obtained from the first respondent for reimbursement. In my

opinion, the respondents cannot take such a technical ground. As stated above, the fourth respondent by the proceedings dated 18.08.2003 has

recommended for reimbursement of the amount. When the third respondent refused to authorize the same stating that the surgery performed on the

daughter of the petitioner was not covered in G.O.Ms. No. 400, the fourth respondent obtained a letter from the Sri Ramakrishan Hospital,

Coimbatore, to the effect that the surgery ASD Closure performed by them is the

same as that of the item No. 33 mentioned in G.O.Ms. No. 400

and sent it to the third respondent. Even thereafter, the amount was not authorized. In those circumstances, the fourth respondent wrote a letter

dated 18.08.2007 to the second respondent to get appropriate orders from the Government to reimburse a sum of Rs. 45,000/- towards the

medical expenses for the operation performed on the daughter of the petitioner. Till date no order is passed by the first respondent authorizing the

amount.

9. As already stated, the very purpose of the scheme is to help the Government servants and their family members to meet the expenses for the

specialized treatment. Since the Government servants is paying subscription every month towards the Tamil Nadu Government Employees Health

Fund Scheme, the respondents cannot take such a technical plea in matters like this wherein Article 21 of the Constitution of India is involved. It is

a different matter if there is a dispute as to the genuineness of the operation performed on 27.09.1999. The operation performed is not disputed, as

stated above. The respondents also gave a certificate that the operation is covered by G.O.Ms. No. 400.

10. Under these circumstances, I am of the view that the fourth respondent is directed to send the bills claiming Rs. 45,000/- (Rupees fourty

thousand only) payable to the petitioner to the third respondent within a period of four weeks from the date of receipt of a copy of this order and

on receipt of the same, the third respondent is directed to reimburse the same by way of authorization immediately without loss of time. The writ

petition is disposed of with the above directions. No costs. Consequently, connected miscellaneous petition is closed.